



CITY OF PLYMOUTH
CITY COMMISSION REGULAR MEETING
MINUTES
MONDAY, APRIL 15, 2019 - 7:00 P.M.
PLYMOUTH CITY HALL COMMISSION CHAMBERS

City of Plymouth
201 S. Main
Plymouth, Michigan 48170-1637

www.plymouthmi.gov
Phone 734-453-1234
Fax 734-455-1892

CALL TO ORDER

Mayor Wolcott called the meeting to order at 7:00 p.m.

PRESENT: Mayor Oliver Wolcott, Mayor Pro Tem Suzi Deal, Commissioners Kelly O'Donnell, Ed Krol, Nick Moroz, Tony Sebastian and Marques Thomey.

ABSENT: None.

Also present was City Manager Paul Sincock, City Attorney Bob Marzano, and various City Department Heads.

CITIZENS COMMENTS

Colleen Pobur provided a Congressional Update about items that Haley Stevens' office is working on and left some Constituent Services brochures at City Hall. Topics included:

Opioid crisis- Western Wayne Rescue and Recovery Program through St. Mary Mercy Hospital in Livonia that is a collaboration with Growth Works. The intervention program run by trained counselors who are recovering addicts, and is offered to people who come to the hospital's emergency room mental health area. In the past year, the intervention has been offered to 790 people of which 83% have successfully transferred to a treatment program.

At Schoolcraft College on Thursday, April 18th from 6-8 p.m., there will be an Education Town Hall. The panel will include Monica Merritt, Plymouth-Canton Schools Superintendent, Conrad Jeffress, Schoolcraft College President, Seth Furlow, Science Teacher, Novi High School, Cassandra Ulbrich President of the State Board of Education, Congresswoman Stevens, Jamal Al, Michigan Regional Council of Carpenters and Millwrights and Career Connection.

Voting Rights Roundtable next week with Secretary of State Jocelyn Benson and a representative from Voters Not Politicians.

On April 27th from 11-1 there will be Congressional Arts Competition at Tony Rocco's Studio at PARC.

On April 27th they will be holding a District Office Open House from 4-6pm at 7 Mile/Newburgh.

Congresswoman Stevens holds Manufacturing Monday's to showcase manufacturing at various locations.

Roundtable for Western Wayne elected officials was held recently where the recycling crisis was discussed. Congresswoman Stevens will have a hearing on April 30th about the impact of recycling on municipalities, where City Manager Paul Sincock will be a witness to report on this topic.

They will be working with Kurt Heise to connect with CSX related to a project to refurbish the bridge over Ann Arbor Rd in Plymouth Twp.

APPROVAL OF THE AGENDA

A motion was made by Commissioner Moroz and seconded by Commissioner Krol for approval of the Agenda for Monday April 15, 2019.

MOTION PASSED 7– 0

ENACTMENT OF THE CONSENT AGENDA

- a) Approval of the April 1, 2019 City Commission Committee of the Whole Meeting Minutes
- b) Approval of the April 1, 2019 City Commission Regular Meeting Minutes
- c) Approval of the April 8, 2019 City Commission Budget Study Session Minutes
- d) Approval of the March 2019 Bills

A motion was made by Commissioner Moroz and seconded Commissioner Thomey for approval of the Consent Agenda for Monday, April 15, 2019.

MOTION PASSED 7 – 0

COMMISSION COMMENTS

Commissioner Krol stated that A Taste of Plymouth is today at The Inn at St. John’s. He and Commissioner Sebastian attended and noted that the Chamber does a great job with the event.

Commissioner Moroz announced the birth of his daughter Zoe.

OLD BUSINESS – None

NEW BUSINESS

- a. Grass Cutting and Fall Leaf Cleanup – Public Properties

RES. #2019-23

WHEREAS The City of Plymouth has a variety of public properties which need to have the lawn mowed on a regular basis; and

WHEREAS From time to time the City bids these services to arrange for lawn mowing and leaf clean up services; and

WHEREAS The City did seek bids for this service and only one vendor bid on the project; and

WHEREAS The City Administration did review the bid and recommends accepting the bid from Serene Surroundings Landscape Group.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby accept the bid from Serene Surroundings Landscape Group for lawn mowing and fall leaf clean up.

A motion was made by Mayor Pro Tem Deal and seconded by Commissioner Moroz for approval of the above resolution.

MOTION PASSED 7 – 0

- b. Authorization to Purchase Playground Equipment

RES. #2019-24

WHEREAS The Kiwanis Club of Colonial Plymouth has been a partner with the City of Plymouth for many years and they are continuing their tradition of service to the community by sponsoring new community build Play Structure and improvements to Kiwanis Park in the City located at Auburn and Junction Streets; and

WHEREAS The City and Kiwanis will partner and share the costs of the improvements to the Kiwanis Park; and

WHEREAS The improvements to the Kiwanis Park are listed in the City's Recreation Master Plan as a necessary project for the continued health, safety and welfare of the community; and

WHEREAS Sponsorship opportunities to improve publicly owned assets is a part of the City's Strategic Plan and this project is a partnership between the City and Kiwanis.
NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby thank the Kiwanis Club of Colonial Plymouth for their continued support of the Adopt A Park program in the City.
BE IT FURTHER RESOLVED THAT the City Commission of the City of Plymouth does hereby authorize expenditures up to \$16,771 for improvements to Kiwanis Park to include new play equipment from Miracle Recreation, Funding for these improvements is covered in the City's Capital Improvement Fund.
BE IT STILL FURTHER BE RESOLVED THAT the City Commission is going to share in the costs of the park improvements and they authorize a payment plan for the Kiwanis Club of Colonial Plymouth to allow the Club to make annual payments to the City in an amount of not less than \$838.55 for a period of 10 years with the option of making larger annual payments to pay the City at total of \$8,385.50 over a period of not more than 10 years.

A motion was made by Commissioner Thomey and seconded by Commissioner Krol for approval of the above resolution.

Commissioner O'Donnell stated that a new tree will also be planted in the park.

MOTION PASSED 7 – 0

c. Replacement Granite for Crypt Fronts

RES. #2019-25

WHEREAS The City of Plymouth operates a municipal cemetery; and
WHEREAS As a part of that cemetery there is what is commonly known as a Garden Crypt Mausoleum; which is located out of doors in a garden setting; and
WHEREAS There is a need to replace several pieces of granite on the crypt fronts; and
WHEREAS The City's Cemetery Board of Trustees has reviewed the plan to replace crypt fronts and has recommended the plan to the City Commission.
NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby authorize the purchase of 48 black granite crypt front panels from Wolverine Stone Company in the amount of \$9,750.00. Funding for this purchase is authorized from the General Fund Capital Improvement Fund.

A motion was made by Commissioner Moroz and seconded by Commissioner Sebastian for approval of the above resolution.

Commissioner Moroz commented that the Cemetery Board approved this unanimously.

MOTION PASSED 7 – 0

d. Planned Unit Development Agreement – Pulte

RES. #2019-26

WHEREAS The City of Plymouth has established the Zoning District of Planned Unit Development for 10 acres of the property commonly located at 100 S. Mill Street; and
WHEREAS The Planned United Development Zoning allows for certain agreements to be established between the Developer and the City of Plymouth; and
WHEREAS The City and the Developer have jointly developed the Agreement that will become

part of the Zoning District for this property.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby authorize Planned Unit Development Agreement for 100 S. Mill Street. Further, the Mayor is hereby authorized to sign the documents on behalf of the City of Plymouth.

BE IT FURTHER RESOLVED THAT the City Clerk shall incorporate a complete copy of the Agreement as a part of the Official Meeting Minutes of this City Commission Meeting.

BE IT STILL FURTHER RESOLVED that the City Commission does hereby direct the City Attorney's Office to ensure that the Agreement is registered with the County Register of Deeds for this property.

A motion was made by Commissioner Moroz and seconded by Commissioner Thomey for approval of the above resolution.

MOTION PASSED 7 – 0

CITY OF PLYMOUTH, WAYNE COUNTY, MICHIGAN
PLANNED UNIT DEVELOPMENT AGREEMENT

THIS PLANNED UNIT DEVELOPMENT AGREEMENT (the "PUD Agreement" or "Agreement") is made and entered into on this ___ day of _____, 2019, by Pulte Homes of Michigan LLC, a Michigan limited liability company, whose address is 100 Bloomfield Hills Parkway, Suite 150, Bloomfield Hills, MI 48304 ("Developer"), and the CITY OF PLYMOUTH, a Michigan municipal corporation, with its principal address at 201 S. Main Street, Plymouth, Michigan 48170 (referred to as "City").

RECITATIONS:

Developer is or will be the owner of, and must produce proof of the same, certain real property consisting of approximately ten (10) acres situated in the City of Plymouth, County of Wayne, and State of Michigan, more particularly described as **Parcel A** on attached **Exhibit A** and commonly known as 100 S. Mill St. (referred to as the "Property"). Developer desires to develop the 76 attached, for sale, townhomes (b) open space areas, and (c) all related infrastructure improvements and amenities on the Property, all to be known as "Mill Street Towns" (collectively, the "Project").

Developer desires to develop the Property as a planned unit development ("PUD") in accordance with the provisions of the City's Zoning Ordinance (the "Zoning Ordinance") entitled "Planned Unit Development", being Article XXIV of the Zoning Ordinance.

Developer submitted a preliminary PUD plan (the "Preliminary PUD Plan") for review and approval by the City and its planner, Carlisle Wortman Associates, Inc. (the "City Planner"), which was reviewed by the Planning Commission on a preliminary basis at its meeting on June 13, 2018. Thereafter, on July 11, 2018, the City's Planning Commission held a public hearing to discuss the Project and approved the Preliminary PUD Plan.

On October 10, 2018 the City Planning Commission, in strict compliance with the Zoning Ordinance and with Act 110 of the Public Acts of 2006, as amended, approved the final PUD plan as attached hereto as **Exhibit B** (as approved, the "Final PUD Plan"), finding that such approval properly achieved the purposes of the Zoning Ordinance, including the encouragement of innovation in land

use, the preservation of open space, the minimization of development impact upon important environmental features, remediation of environmental contamination, the provision of a less intensive use than allowed under current zoning, the promotion of efficient provision of public services and utilities, the reduction of adverse traffic impacts, and the provision of adequate housing and employment.

The City has found and concluded that the uses and future development plans and conditions shown on the approved Final PUD Plan for the Project are reasonable and promote the public health, safety and welfare of the City, and that they are consistent with the plans and objectives of the City and consistent with surrounding uses of land.

The City Commission approved the Final PUD Plan on April 1, 2019.

NOW, THEREFORE, Developer and City, in consideration of the mutual promises and covenants contained in this Agreement, HEREBY AGREE AS FOLLOWS:

ARTICLE I GENERAL TERMS OF AGREEMENT

- 1.1 The City and Developer acknowledge and represent that the recitations set forth above are true, accurate and binding.
- 1.2 The City acknowledges and represents that this Agreement may be relied upon for future land use and development of the Property by Developer's heirs, successors, assigns and transferees.
- 1.3 The Final PUD Plan for the Property has been duly approved by the City in accordance with all applicable City ordinances, and depicts the land uses which will be permitted and which may be developed on the Property. All formal actions necessary or expedient to carry out this Agreement shall be taken by the parties without undue delay.
- 1.4 Except as specifically provided for in this Agreement, all development and improvement of the Property shall be subject to and in accordance with all applicable Zoning Ordinance requirements. However, at the time of review of respective site plans for the development of various portions of the Property, deviations or modifications from ordinance regulations may be agreed upon by the City and the Developer of the Property, subject to the terms and conditions of this PUD Agreement and the City of Plymouth Zoning Ordinances, including, but not limited to, Section 78-318, in which event, such approved deviations shall control. However no deviations shall decrease density, the number of approved units, or materially increase the obligations of the Developer under this Agreement. The Preliminary PUD Plan and the Final PUD Plan shall collectively be referred to herein as the "PUD Plan". All references in this Agreement to zoning ordinances shall be deemed to refer to the zoning ordinances in effect as of the date of this Agreement. The Project shall not be subject to any additional zoning requirements contained in any amendment or additions to the zoning ordinances that conflict with the provisions of this Agreement and the PUD

Plan, provided that all construction and development is completed in compliance with this Agreement and the PUD Plan.

1.5 The PUD Plan for the Property identifies the location and configuration of the authorized land-uses that may be developed on the Property, or those that must remain undeveloped.

1.5.1. Developer shall not be entitled to make a modification which increases the impact upon adjoining properties or facilities without the approval of City as provided by City Ordinance Article XXIV Sec. 78-318.

1.5.2 In those instances in which Developer desires to obtain a modification of the PUD Plan for the Property, any such modification or deviation must be done in accordance with the City of Plymouth Zoning Ordinances, including, but not limited to, Section 78-318. Minor modifications of the PUD Plan may be approved administratively in accordance with Section 78-318 of the Zoning Ordinance.

ARTICLE II

LAND USE AUTHORIZATION AND STANDARDS FOR THE PROPERTY

2.1 The PUD Plan reflects the change in the zoning for the Property from I-2 Heavy Industrial to Planned Unit Development and constitutes a land use authorization for the following uses, as set forth on the PUD Plan for the Property:

MU- Mixed Use

2.2 The number of residential units to be permitted on the Property shall be as follows (all as shown on the PUD Plan for the Property):

- 76 Attached For-Sale Townhomes

2.3 The Property shall only be used for attached single-family residential purposes, including such amenities as may be constructed by Developer in accordance with the Final PUD Plan, including but not limited to, (a) seventy six (76) single-family attached residential dwellings, (b) centralized mailbox location(s), (c) storm water detention, (d) environmental remediation of the Property, (e) walking paths, green-space and open space, (f) HAWK signal, (g) landscaping, (h) lighting and (g) related infrastructure and amenities.

Additional specifications applicable to the Project are:

ENTIRE PROJECT

Site Area	10+/- acres
-----------	-------------

SINGLE FAMILY ATTACHED RESIDENTIAL

Setbacks:	Front	163 feet
	Side (least one)	46 feet (one side); 113 feet total
	Rear	+45 feet
Parking	Regular	304 garage and driveway spaces and 16 guest parking spaces
	Barrier-free	4 spaces

The PUD Plan deviates from the required 70 foot distance between the rears of two buildings. This deviation has been approved and is permitted as shown on the PUD Plan.

ARTICLE III
LANDSCAPING AND BUILDING IMPROVEMENTS

3.1 Developer shall be responsible for installing all landscaping on the Property in accordance with the approved PUD Plan. Developer shall also be responsible for removing any debris that is deposited in the landscape areas of the Project and shall maintain such areas to ensure that they are free of trash, rubbish or unsightly weeds. After installation, Developer shall (and upon transition control of the condominium for the Project to the Condominium Association established by Developer (the "Association"), the Association shall) maintain the landscaping in the common areas of the Project in accordance with all City Ordinances.

- 3.1.1 During site development of the Property, Developer shall clean-up the adjacent parcel as shown on Exhibit C (the "Parcel B") as follows:
- Remove any debris, barbed wire, fencing, trees, and any above-ground structures or concrete
 - Grade and seed Parcel B in conjunction with the landscaping of Parcel A

Provided, however, Developer shall not be in default hereunder if Developer is unable to undertake some or all of the above activities on Parcel B due to the acts or omission of the owner of Parcel B, in which event Developer shall no longer have to comply with the above clean-up requirements.

3.2 City acknowledges that the landscaping plan shown and included in the PUD Plan is acceptable and approved.

3.3 Trash and recycling removal shall be handled by individual bulk trash and recycling pick-up as part of the City-wide system.

3.4 Before any Certificates of Occupancy are to be issued the following must be provided by the Developer:

- Easement agreement with the owner of the Parcel B for a pedestrian path from the Project to Main St.

- Schedule for the installation of the HAWK crossing signal located on S. Mill St. proximate to the project
- Installation of (or the posting of a bond or other financial assurances reasonably satisfactory to the City to remain in place until completion of the installation of) the pedestrian sitting area at/near the entrance to the Project with pergola and benches as indicated on the PUD Plan.
- Installation of (or the posting of a bond or other financial assurances reasonably satisfactory to the City to remain in place until completion of the installation of) all infrastructure and public amenities set forth in the PUD Plan, including but not limited to: internal sidewalks, walkway, and paths, utilities, detention ponds, landscaping, and a pedestrian sitting area near the storm water detention ponds.
- Proof of execution of all easements necessary for operation of the Project with the City of Plymouth and Wayne County
- Written verification of completion of the environmental remediation of the Property as required to be completed at such time pursuant to a Brownfield Plan for the Project approved by Developer and the City. The City acknowledges that this pertains only to corrective action work to the Property, if any, required by the Brownfield Plan. Certificates of Occupancy are not tied to completing due care, monitoring, site controls and other obligations under the Brownfield Plan which do not involve physical corrective action work to the Property.

Notwithstanding the foregoing, the site improvements, infrastructure and public amenities may be constructed (and financial assurances provided for, if applicable as provided above) in [phases as shown on the Final PUD Plan](#). [Accordingly](#), the issuance of building permits, construction of buildings, and issuance of individual certificates of occupancy for each building [or townhome](#) may occur in sub-phases allowing for staged sequencing, and allowing for residents to move in and occupy townhomes as the townhomes are completed.

ARTICLE IV UTILITIES AND SITE IMPROVEMENTS

4.1 The Developer shall be financially responsible for the design and construction of the detention pond facilities within the Project as shown on the PUD Plan (the "[Detention Pond](#)"). In connection therewith, and in order to ensure completion of the construction of the Detention Pond, Developer shall provide a performance guaranty to the Wayne County Drain Commissioner, in an amount agreed to by the Developer and the Wayne County Drain Commissioner, in the form of cash, bond, letter of credit or other financial assurances acceptable to the Wayne County Drain Commissioner (the "[Performance Guarantee](#)"). Developer, its successors and assigns (including the Association), shall have the obligation of maintaining the internal stormwater drainage system and the Detention Pond and provide proof of the same to the City and/or County, as applicable, annually upon request; provided, however, such maintenance obligation shall end if and when the stormwater drainage system and the Detention Pond are accepted by Wayne County Drain Commissioner under a so-called 433 Agreement pursuant to Section 433 of Act No. 40 of the Public Acts of 1956. To

evidence such maintenance obligations, Developer shall execute and deliver a separate detention pond maintenance agreement, in mutually acceptable recordable form (the "Pond Maintenance Agreement") to be recorded with the Wayne County Register of Deeds. Should the Developer, its successors, and assigns fail to maintain the system as required by the Pond Maintenance Agreement, the City shall have the rights and remedies set forth in the Pond Maintenance Agreement. Alternatively the provisions of a Pond Maintenance Agreement may be incorporated in the master deed or other condominium documents for the Project.

4.2 Each principal and accessory building within the Project intended for occupancy shall be connected to public water and sanitary sewer systems, subject to applicable government approvals. Easements for maintenance, repair and replacement shall be granted by the Developer as requested or as necessary to the appropriate agencies, and the water and sanitary sewer systems shall be accessible for such purposes, including the provision of ingress and egress. Necessary restoration of the common areas, internal drives, sidewalks etc. resulting from repair of any public utility shall be the responsibility of the Developer, its successors and assigns. Failure to complete such restoration shall be addressed by the City in the manner provided in Section 5.3 of this Agreement. The fees for water connection and sewer connection shall be paid at the prevailing rate and in the customary manner, at the time of application for a building permit(s) for each building shown on the PUD Plan.

4.3 To the extent practicable, all electric, natural gas, telephone, cable, water, sewer and other utility and communication systems shall be placed underground in accordance with the requirements of the applicable utility provider and applicable, State, local and Federal laws. Easements for maintenance, repair and replacement shall be granted by the Developer as requested or as necessary to the appropriate utility providers, including the provision of ingress and egress.

4.4 Developer shall provide a complete lighting system for the Project, including pole-mounted and wall-mounted fixtures, in the size, location and type as shown on the PUD Plan. Developer shall also provide a photometric analysis of all property lines to ensure reasonable light levels at the Property lines. This lighting plan and analysis has already been approved by the City (or its consultants).

4.4 Project signage was not provided on the PUD Plan. Any identification signs for the Project must be applied for and approved by the City or the City Planner and must meet the requirements of the applicable Zoning Ordinances.

ARTICLE V ROADS, DRIVES AND SIDEWALKS

5.1 A system of private internal drives and sidewalks shall be established as shown on the PUD Plan and shall provide continuity of public access between adjacent and connecting perimeter public roads in order to provide continuous ingress and egress to all components of the Project in perpetuity. The Pedestrian Path across Parcel B will

also be installed during the development of the Project. Maintenance and repair of all internal drives, sidewalks, and the Pedestrian Path shall also be the obligation of the Developer or its successors or assigns. All internal private drives, sidewalks, parking areas, and the Pedestrian Path shall meet the requirements of the PUD Plan and this Agreement. All internal drives and sidewalks, parking areas, and the Pedestrian Path shall be maintained, by the Developer or its successors or assigns, in good condition on a regular basis to maximize the useful life of the drives, sidewalks and parking lot, and to minimize repair and replacement costs. Nonetheless these maintenance obligations shall be assumed by the condominium association for the Project after the “transitional control date” as defined by the Michigan Condominium Act MCL 559.110(7), the date on which co-owners elect a majority of the Association Board of Directors.

- 5.2 Developer or its successor or assigns, shall be subject to the enforcement rights of the City as described in Section 5.3 herein, to assure that the Developer or its successor or assigns, carries out its responsibilities with regard to ongoing maintenance, repair and replacement of the sidewalks, drives and parking spaces within the Project. The layout, configuration and geometrics of the internal drives, sidewalks, pathways and parking areas shall be as shown on the PUD Plan. Such internal drives, sidewalks, and pathways shall not be considered public roads and/or sidewalks and pathways as defined in the Zoning Ordinances and shall not be designated Rights-of-Way.
- 5.3 In the event that the Developer or its successor or assigns, at any time fail to carry out its responsibilities in regard to restoration, maintenance, repair, and replacement of the private internal drives and sidewalks, including the parking areas, the City may serve written notice upon the Developer, its successor or assigns, as applicable, setting forth the deficiencies in maintenance, repair or replacement. The notice shall also set forth any demand that the deficiencies be cured within a stated reasonable time period and the date, time, and place for a hearing before the City Council, or such other board, body, or official delegated by the City Council, for the purpose of allowing the violating party an opportunity to be heard as to why the City should not proceed with the correction of the deficiency or obligation which has not been undertaken. At any such hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. If, following the hearing described above, the City Commission, or such other board, body, or official designated to conduct the hearing, reasonably determines that that the maintenance, repair or replacement have not been undertaken within the time specified in the notice, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents or contractors to enter upon the Property, and perform such maintenance, repair or replacement as reasonably found by the City to be appropriate. The City’s costs of performing any such maintenance or cure, together with a surcharge equal to twenty-five (25%) percent to cover administrative costs, shall be assessed to the owner of the Property at the time such maintenance or cure is performed, placed on the next City tax roll as a special assessment, and collected in the same manner as general property taxes.

ARTICLEVII
MODIFICATION

- 7.1 Neither this Agreement nor the PUD Plan (except for minor modification pursuant to Section 78-318 of the Zoning Ordinance) may be modified, replaced, amended or terminated without the prior written consent of the parties to this Agreement, or any successors of the parties hereto. However, except as otherwise expressly modified by this Agreement, the City retains all rights set forth in its Zoning Ordinances, including, but not limited to, those set forth in Article XXIV, Section 78-318. Developer and City shall together be entitled to modify, replace or amend this Agreement, with the consent of Developer's mortgagee, but without the consent of any other person or entity, regardless of whether such person or entity now or hereafter has any interest in any part of the Property, including subsequent purchasers, or their tenants, their mortgagees or others. Any such amendment or modification shall be approved by resolution of the City commission, memorialized by written instrument executed by the Mayor, City Clerk and Developer, and recorded with the Wayne County Register of Deeds. If the Developer desires to obtain a modification of the Final PUD Plan, any such modification or deviation must be done in conformance with the City of Plymouth Zoning Ordinances, including but not limited to, Section 78-318.

ARTICLEVIII
MISCELLANEOUS

- 8.1 In the event of any conflict between the terms and provisions of this Agreement (including the attached PUD Plan for the Property) and the provisions of the Zoning Ordinance, or other City ordinances, rules or regulations, the provisions of this Agreement shall control. In the event of a conflict between the Preliminary PUD Plan and the Final PUD Plan, the Final PUD Plan shall control. In the event of a conflict between the terms of this PUD Agreement and the Final PUD Plan, the Final PUD Plan shall control.
- 8.2 The undersigned parties acknowledge that the conditions imposed upon the development of the Property are reasonable and necessary to ensure that public services and facilities affected by the proposed land use or activity will be capable to accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
- 8.3 This PUD Agreement, including the uses approved on the PUD Plan for the Property, are for the benefit of the Property, shall run with the land, and be binding on, and inure to the benefit of, any successors or assigns of the parties to this Agreement. Once Developer or its assigns has turned over the Condominium comprising the Project to the Association after the transitional control date under the Michigan Condominium Act, the Developer shall have no further obligation or liability under this

Agreement with respect to obligations or liability first arising under this Agreement after the effective date of such assignment.

- 8.4 Unless this Agreement specifically provides to the contrary, the Developer is responsible for paying all costs associated with any of its obligations specified in this Agreement and all aspects of the Project.
- 8.4 Prior to commencing construction on any portion of the Project, Developer shall obtain and pay for all necessary permits and approvals from all applicable municipal, state or federal authorities with jurisdiction over the Project or any aspect thereof, which are necessary to undertake that particular phase of the Project.
- 8.5 The signers below on behalf of Developer represent by their signatures that they represent and have authority to bind all owners of legal and equitable title to the Property.
- 8.6 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the enforceability or validity of the remaining provisions and this Agreement shall be construed in all respects as if any invalid or unenforceable provision were omitted.
- 8.7 Recording and Binding Effect. The obligations under this Agreement are covenants that run with the land, and thus bind successors in title of the Property. It is the parties' intent that this Agreement shall be recorded with the Wayne County Register of Deeds. The Developer is responsible for recording this Agreement with the Wayne County Register of Deeds and shall pay all costs associated with the recording of this Agreement.
- 8.8 The City shall reasonably cooperate with prompt issuance of building permits after all the requirements for the issuance of building permits have been met and the City of Plymouth agrees to assist and facilitate the issuing the permits even if tax parcel numbers have not necessarily been assigned to all proposed units at the time requested.

BALANCE OF PAGE INTENTIONALLY BLANK
SIGNATURES AND NOTARIZATION ON FOLLOWING PAGES

APPROVED by Developer and City this ___ day of _____, 2016.

"DEVELOPER"

Pulte Homes of Michigan, a Michigan limited liability company

By: _____
Chris Plumb, Authorized Agent

STATE OF MICHIGAN }
COUNTY OF _____ }

The foregoing instrument was acknowledged before me this ____ day of ____, 2015 by Mark Menuck, member of Curtis-Plymouth LLC, a Michigan limited liability company.

Printed Name:
Notary Public: _____ County, MI
My commission expires:
Acting in _____ County

CITY OF PLYMOUTH, a Michigan municipal corporation

By: _____
_____, Mayor

And By: _____
_____, City Clerk

STATE OF MICHIGAN}
COUNTY OF _____ }

The foregoing instrument was acknowledged before me this ____ day of ____, 2016 by _____, the Mayor, and _____, City Clerk, of the City of Plymouth, a Michigan municipal corporation, for and on behalf of such municipal corporation.

Printed Name:
Notary Public: _____ County, MI
My commission expires:
Acting in _____ County

e. Planned Unit Development Agreement– Lumber Mart Site

RES. #2019-27

WHEREAS The City of Plymouth has established the Zoning District of Planned Unit Development for the property commonly known as the former Lumber Mart Site; and

WHEREAS The Planned United Development Zoning allows for certain agreements to be established between the Developer and the City of Plymouth; and

WHEREAS The City and the Developer have jointly developed the Agreement that will become part of the Zoning District for this property.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby authorize Planned Unit Development Agreement between the developer of the former Lumber Mart site and the City. Further, the Mayor is hereby authorized to sign the documents on behalf of the City of Plymouth.

BE IT FURTHER RESOLVED THAT the City Clerk shall incorporate a complete copy of the Agreement as a part of the Official Meeting Minutes of this City Commission Meeting.

BE IT STILL FURTHER RESOLVED that the City Commission does hereby direct the City Attorney's Office to ensure that the Agreement is registered with the County Register of Deeds for this property.

A motion was made by Mayor Pro Tem Deal and seconded by Commissioner Moroz for approval of the above resolution.

MOTION PASSED 7 – 0

PLANNED UNIT DEVELOPMENT AGREEMENT

THIS PLANNED UNIT DEVELOPMENT AGREEMENT is made and entered into as of the _____ day of _____, 2019, by and between the **City of Plymouth**, a Michigan municipal corporation (the "**City**") whose address is 201 S. Main Street, Plymouth, Michigan 48170, and **Mill Street Ventures, LLC**, a Michigan limited liability company (the "**Developer**") whose address is 26640 Harding, Oak Park, Michigan 48237.

ARTICLE 1 **RECITALS**

- 1.1 The Developer owns certain real property that was previously the former Lumber Mart Supply location at 166 E. Ann Arbor Trail, at the southeast corner of the Ann Arbor Trail and Mill Street intersection, in the City of Plymouth, the legal description for which is attached hereto as **Exhibit A** (the "**Property**"). The Property is currently comprised of two parcels being Parcel I.D. #007-02-0894-300, zoned RM-1, and Parcel I.D. #007-002-0890-007, zoned B-3.
- 1.2 The Developer desires to develop the Property as a planned unit development, pursuant to City PUD Ordinance to be developed as two mixed use buildings, being Building A and Building B as shown on the attached Final Site Plan, and comprised of multiple family residential and retail/office uses.
- 1.3 The intended use of the Property is consistent with the goals and policies of the City's master plan, including the South Mill Sub Area Plan which provides for mixed use development, including multiple family residential and neighborhood commercial uses and streetscape improvements, which are included in the Project.
- 1.4 The proposed development will benefit the community through the redevelopment of a vacant, unproductive and obsolete property, helping to revitalize the area and bring new economic and residential living opportunities to the community, and providing a significant increase in the tax base, while also featuring outdoor public green space in which a train viewing platform with a shelter and picnic area, trails and extensive landscaping will be installed.
- 1.5 The Developer has submitted a final site plan for the Property prepared by identifying the components of the Project which was accepted and approved by the City subject to the all Laws and City Ordinances. The Property is to be developed and maintained only as shown in the Final Site Plan, and any change to the Final Site Plan shall require review and approval by the City, which such approval shall not be unreasonably withheld, consistent with all laws and City Ordinances.
- 1.6 The PUD Ordinance requires the executing and recording of this Agreement in connection with the final approval of the PUD, setting forth the conditions upon which such approval is based.

- 1.7 The City desires to ensure that the Property is developed and used in accordance with this Agreement, the approved Final Site Plan, the PUD Ordinance and all other applicable Laws and City Ordinances.
- 1.8 Developer is requesting approval of this Agreement and the Final Site Plan as a part of the requirement for a Planned Unit Development rezoning and final approval by the City Commission, pursuant to the terms and conditions of all applicable laws, including Article XX of the Zoning Ordinance.
- 1.9 This Agreement contains all of the terms and conditions required by the PUD Ordinance, and sets forth the conditions upon which approval is based.
- 1.10 The Plymouth Planning Commission, after giving proper notice, held a public hearing on at its meeting on February 13, 2019, considered the PUD rezoning and Final Site Plan and recommended approval by the City Commission.
- 1.11 The Plymouth City Commission, at a meeting duly held on April ____, 2019, adopted a resolution approving this Agreement, the Final Site Plan, and the rezoning of the Property to PUD in accordance with the Agreement and the Final Site Plan.
- 1.12 Both the Developer and the City wish to establish the terms and conditions under which the Property will be developed, owned and maintained by the Developer, its successors, transferees and/or assigns.

NOW, THEREFORE, for and in consideration of the development of the Property and the approval of the PUD for the Property pursuant to City Ordinances, the City and the Developer, along with its successors, transferees and/or assigns, agree as follows:

ARTICLE 2

DEFINITIONS AND COVENANTS

In addition to certain terms defined in other sections of this PUD Agreement, the City and the Developer agree that the following definitions and covenants contained therein shall apply to this PUD Agreement:

2.1 **“Agreement”** means this Agreement by and between the City and the Developer.

2.2 **“City Ordinances”** means all the PUD Ordinance, the Zoning Ordinance and all other ordinances, enactments, rules, regulations and policies of the City, including but not limited to, zoning and land use ordinances and requirements; building codes, ordinances, uses and requirements; safety and health ordinances and requirements; site plan and building plan review and approval guidelines, procedures, requirements and conditions; ordinances, rules and regulations governing utilities, roads, curb cuts, site improvements, sidewalks, lighting and similar improvements; ordinances and rules assessing tap-in fees, connection charges, use fees and any other fees, charges and expenses; and police, safety and traffic rules and regulations.

2.3 **“Effective Date”** means the date this Agreement is recorded with the Wayne County Register of Deeds.

2.4 **“Final Site Plan”** means the final site plan prepared by Designhaus Architecture dated February 13, 2019, which is attached hereto at **Exhibit B** and incorporated herein by reference.

2.5 **“Improvements”** means any improvement(s) which may be constructed from time to time on the Property, including, but not limited to driveways and walkways, utilities, storm water systems, buildings and landscaping and rights-of-way improvements, which improvements shall be constructed in accordance with the Final Site Plan approved by the City and in compliance with all Laws and City Ordinances.

2.6 **“Laws”** means all laws, statutes, orders, ordinances, codes, rules, regulations or standards of any federal, state, city or similar governmental agency or authority having jurisdiction thereof, including, without limitation, building and use codes and requirements, Americans with Disabilities Act, handicap and similar legislation, safety and health laws and requirements, environmental laws.

2.7 **“Party”** or **“Parties”** means any one or more of the City or the Developer.

2.8 **“Person”** means an individual, corporation, partnership (either general or limited), trust, limited liability company, limited liability partnership, entity or other form of organization, or one or more of them, as the context may require.

2.9 **“Project”** means the development of the Property in accordance with this Agreement and the Final Site Plan.

2.10 **“Property”** means the real property legally described on **Exhibit A** attached hereto and incorporated herein by reference.

2.11 **“PUD”** means the zoning designation of the Property as a Planned Unit Development pursuant to the PUD Ordinance and Zoning Ordinance provisions and developed in accordance with the Final Site Plan and in compliance with all Laws and City Ordinances.

2.12 **“PUD Ordinance”** means Chapter 78, Article XXIV of City Ordinances.

2.13 **“Zoning Ordinance”** means Chapter 78 of the City Ordinances.

ARTICLE 3 **PROJECT DESCRIPTION AND APPROVAL**

3.1 **Project Description.** The Project involves the development of the Property as set forth in the Final Site Plan. The Project involves the development of Building A and Building B on the Property as a mixed use development, containing multiple family residential dwelling units, with accompanying retail/office uses servicing the community. The Property shall be developed and constructed in accordance with the approved Final Site Plan and any and all subsequent construction documents in compliance with the Agreement and any and all applicable Laws and City Ordinances.

3.2 **Final Site Plan.** The Project is depicted in the Final Site Plan, which was part of the Planning Commission recommendation and the City Commission approval. The Developer shall prepare and submit final construction drawings consistent with the Final Site Plan and necessary to comply with all applicable Laws and City Ordinances.

3.3 **PUD Approval.** The Parties acknowledge and agree that the Project has been granted final PUD approval by the City, subject to compliance with the terms and conditions of this Agreement (**“PUD Approval”**). Such PUD approval includes approval of this Agreement and the Final Site Plan, which take precedence over and supersede any and all prior reports, agreements, plans and other submissions to the City relative to the Property. Developer’s rights to develop the Property as provided for in this Agreement are fully vested upon the execution and recording of this Agreement.

3.4 Conditions of PUD Approval. The PUD Approval shall be subject to the following conditions with which Developer must comply in the development of the Project:

3.4.1 The Property will only be used for the permitted uses of multiple family and retail/office, in accordance with the Final Site Plan.

3.4.2 The height of the parapet walls on Building A shall be between 2 – 5 feet, with most parapet walls being 4 feet high; the height of the parapet walls on Building B shall be between 3 – 7 feet, with most parapet walls being between 3 – 5.5 feet high; total building height to the top of the parapet wall shall not exceed 41 feet, all as shown on the Final Site Plan.

3.4.3 The Project shall include the installation of a train viewing platform with a pocket park that shall include a shelter, walking paths, benches, picnic tables, split rail fences, berms and landscaping as shown on the Final Site Plan, which shall be open for use by the community.

3.4.4 Developer shall install a public sidewalk to be five feet (5') in width from the intersection of Mill Street and Ann Arbor Trail to the railroad tracks as shown on the Final Site Plan.

3.4.5 Developer shall install a six foot (6') high cedar wood privacy fence between the easterly parking lot and the residential homes to the north, as shown on the Final Site Plan.

3.5 Zoning. The City acknowledges that the Property has been rezoned as a PUD amendment to the Zoning Ordinance subject to the terms of this Agreement. Approval of the Final Site Plan and this Agreement shall constitute an inseparable part of the zoning amendment for the Property. Except as provided in the Agreement, no subsequent zoning action by the City shall impair the rights of the Developer hereunder, and the uses and development permitted by this Agreement shall be deemed to be lawful, conforming uses. The Developer shall fully comply with all design and engineering standards and other Laws and City Ordinances in effect at the time of construction of the Project, unless superseded by this Agreement.

3.6 Zoning Ordinance Requirements. Except as set forth in this Agreement and the Final Site Plan, the Project shall be developed in accordance with City Ordinances. In the event the express provisions of this Agreement or the Final Site Plan are inconsistent with City Ordinances, regulations or design standards in existence on the date of this Agreement, then this Agreement and Final Site Plan shall control. Except for any such conflict, the provisions of City Ordinances shall apply. The Developer acknowledges and understands that modifications that may be requested by the Developer to vary the strict requirements of City Ordinances and design standards may or may not be granted by the City.

3.7 Zoning Ordinance Deviations. The following modifications to the requirements of the Zoning Ordinance are approved by the City without further review:

3.7.1 The Developer shall only be required to install 119 parking spaces as shown on the Final Site Plan.

3.7.2 Building A is three (3) stories in height and exceeds the Zoning Ordinance height requirements by approximately 11 feet, as shown on the Final Site Plan. Building B exceeds the Zoning Ordinance height requirements by approximately 1.7 feet, as shown on the Final Site Plan.

3.7.3 Residential use is permitted on the first floor.

3.8 Modifications. No major modifications to the Final Site Plan shall be made without approval of the City Planning Commission. Minor modifications to the Final Site Plan shall be subject to the approval

of the City building official, which shall be granted if such proposed modification does not alter the basic design or any conditions of the Project as set forth in this Agreement and/or the Final Site Plan. All such minor modifications shall be in accordance with the requirements of Sec. 78-318 of the PUD Ordinance.

ARTICLE 4 **GENERAL PROVISIONS**

4.1 City's Representations and Warranties. The City hereby makes the following representations and warranties to the Developer, which representations and warranties shall be true and correct as of the Effective Date:

4.1.1 The City has the authority to enter into this Agreement to perform and carry out all obligations, covenants and provisions hereof. City authority shall be evidenced by appropriate resolutions.

4.1.2 This Agreement complies with the requirements of City Ordinances, including Article XXIV of City Zoning Ordinance.

4.1.3 The City Commission is the sole and appropriate municipal body to enter into the Planned Unit Agreement with the Developer.

4.1.4 The intended land uses are permissible uses under the City Zoning Ordinance.

4.1.5 The uses approved by the City Commission shall be valid for as long as the Developer or its successors or assigns utilize the Property for the approved uses pursuant to this Agreement and the Final Site Plan.

4.1.7 Neither the execution nor the delivery of this Agreement nor the consummation of the transactions contemplated hereby is in violation of any provision of any existing Law or regulation, order or decree of any court or governmental entity, City Charter or any agreement to which the City is a Party or by which it is bound.

4.1.8 No representations or warranties by the City, or any statement or certificate furnished to the Developer pursuant hereto or in connection with the transaction contemplated hereby, contains or will contain any untrue statement of a material fact or will omit to state any fact necessary to make the statements contained herein or therein not misleading.

4.1.9 The City has no notice of, and there is no pending or threatened litigation, administrative action or examination, claim or demand before any court or any federal, state or municipal governmental department, commission, board, bureau, agency or instrumentality thereof which would affect the City or its principals from carrying out the covenants and promises made herein.

4.2 Developer Representations and Warranties. The Developer hereby makes the following representations and warranties to the City, which representations and warranties shall be true and correct as of the Effective Date:

4.2.1 The Developer is or shall be a duly organized and validly existing in good standing under the laws of the State of Michigan and has the requisite power and authority to own and operate its assets and properties, to carry on its business as now being conducted, and to enter into and perform the terms of this Agreement.

4.2.2 The execution and delivery of this Agreement and consummation of the transactions contemplated hereby have been duly authorized by the Developer.

4.2.3 Neither the execution nor delivery of this Agreement nor the consummation of the transactions contemplated hereby is in violation of any provisions of any existing Law or regulation, order or decree of any court or governmental entity, the Developer's organizational documents, or any agreement to which the Developer is a Party or by which it is bound.

4.2.4 No representation or warranty by the Developer, or any statement or certificate furnished to the City pursuant hereto or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact or will omit to state any fact necessary to make the statements contained herein or therein not misleading.

4.2.5 The Developer has no notice of and there is no pending or threatened litigation, administrative action or examination, claim or demand before any court or any federal, state or municipal governmental department, commission, board, bureau, agency or instrumentality thereof which would affect the Developer or its principals from carrying out the covenants and promises made herein.

4.2.6 The Developer is financially able to develop the Property.

4.2.7 The Developer has either (a) determined that all lines systems and facilities for storm water, sanitary sewer, gas, electricity, telephone, cable and all other utilities (collectively the "**Utility Lines**") are of sufficient size and capacity for the development of the Property, or (b) committed to construct, improve, expand or otherwise install sufficient and adequate Utility Lines to serve the Property for the Project's intended uses at the sole cost and expense of the Developer. The Developer acknowledges and agrees that any Utility Lines will be installed according to plans approved by City Engineering Department, and any and all public rights of way shall be improved at the Developer's sole cost and expense and subject to City Engineering Site Plan Design Standards. Any and all requisite permits from the State of Michigan, Wayne County, or any other governmental body shall be obtained solely at the Developer's effort and expense.

4.2.8 The Developer agrees to timely submit the plans and documents, and any and all amendments, to the City to achieve the purposes of this Agreement.

4.2.9 The Developer agrees to construct the improvements and to use the Property exclusively and solely for those uses permitted in this Agreement.

4.3 Cooperation. The Developer and the City shall execute and deliver any and all further documents necessary or appropriate to facilitate the implementation of the PUD and this Agreement.

ARTICLE 5

DEVELOPMENT AND CONSTRUCTION OF THE PROJECT

5.1 Storm Water Detention System. The Developer shall be financially responsible for the design and construction of the storm water detention facilities within the Project (the "**Detention System**"). In connection therewith, and in order to ensure completion of the construction of the Detention System, Developer shall provide a performance guaranty, in an amount agreed to by the Developer and the Wayne County Drain Commissioner, in the form of either a bond or letter of credit (either, the "**Performance Guaranty**"), to Wayne County Drain Commissioner. Developer, its successors and assigns, shall have the obligation to maintain the Detention System and provide proof of the same to the City and/or County annually. To evidence such maintenance obligations, Developer shall execute

and deliver a separate Detention System Maintenance Agreement in recordable form to be recorded with the Wayne County Register of Deeds. Should the Developer, its successors and assigns fail to maintain the Detention System in good operating condition, then after delivery of written notice to the Developer specifying the maintenance and/or repair required to be made to the Detention System and the failure of the Developer to perform the required maintenance and/or repair within thirty (30) days thereafter (weather permitting), the City of Plymouth may cause the required maintenance and/or repair to be performed and the Developer, its successors and assigns shall be responsible for the cost of the same as well as a twenty-five percent (25%) administrative fee paid to the City.

5.2 Water and Sanitary Sewer. Each building within the Project intended for occupancy shall be connected to public water and sanitary sewer systems, as approved by the City, Wayne County and the appropriate State authorities. Easements for maintenance, repair and replacement shall be granted by the Developer as requested or as necessary to the appropriate agencies, and the water and sanitary sewer systems shall be accessible for such purposes, including the provision of ingress and egress. Necessary restoration of the common areas, internal drives, sidewalks etc. resulting from repair of any public utility shall be the responsibility of the Developer, its successors and assigns. Failure to complete such restoration shall be addressed by the City in the manner provided in Section 5.7 of this Agreement. The fees for water connection and sewer connection shall be paid at the standard rate and in the customary manner, at the time of application for a building permit(s) for each building shown on the Final Site Plan.

5.3 Private Utilities. To the extent practicable, all electric, natural gas, telephone, cable, water, sewer and other utility and communication systems shall be placed underground in accordance with the requirements of the applicable utility provider and applicable, State, local and Federal laws. Easements for maintenance, repair and replacement shall be granted by the Developer as requested or as necessary to the appropriate utility providers, including the provision of ingress and egress.

5.4 Site Lighting. Developer shall provide a complete lighting system for the Project, including pole-mounted and wall-mounted fixtures, in the size, location and type as shown on the Final Site Plan.

5.5 Signage. Project signage, as shown on the Final Site Plan, has been approved by the City.

5.6 Site Improvements. A system of private internal drives and sidewalks shall be established as shown on the Final Site Plan and shall provide continuity of access between adjacent and connecting perimeter public roads and sidewalks. All internal private drives, sidewalks, parking areas, and the train viewing platform with a shelter and picnic area, trails, walkways and landscaping shall be installed by the Developer in accordance with the Final Site Plan and as described in this Agreement. All improvements described in this Section shall be maintained by the Developer, its successors or assigns, in good operating condition. The Developer, its successor or assigns, shall be subject to the enforcement rights of the City as described in Section 5.7 herein, to assure that the Developer, its successor or assigns, carries out its responsibilities regarding ongoing maintenance, repair and replacement of the improvements described in this Section. The layout, configuration and geometrics of the improvements described in this Section shall be as shown on the Final Site Plan. Such internal drives, sidewalks, and pathways shall not be considered public roads and/or sidewalks and pathways as defined in the City Zoning Ordinance and shall not be designated as rights-of-way.

5.7 City Enforcement Rights. In the event that the Developer, or its successors or assigns, at any time fails to carry out its responsibilities in regard to restoration, maintenance, repair, and replacement of the private internal drives and sidewalks, including the parking areas in the condition required hereunder, the City may serve written notice upon the Developer, its successors or assigns, as applicable, setting forth the deficiencies in maintenance, repair or replacement. The notice shall also set forth any demand that the deficiencies be cured within a reasonable time. If the City shall

determine that maintenance, repair or replacement have not been undertaken within thirty (30) days from the delivery of such notice (weather permitting), the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents or contractors to enter upon the Property, and perform such maintenance, repair or replacement as required hereunder. The City's costs of performing any such maintenance or cure, together with a surcharge equal to twenty-five (25%) percent to cover administrative costs, shall be assessed to the owner of the Property at the time such maintenance or cure is performed, placed on the next City tax roll as a special assessment, and collected in the same manner as general property taxes.

5.8 Permit Application. The Developer shall prepare and submit any and all documents and drawings necessary to obtain all permits for the Project pursuant to the Final Site Plan to the City (including all appropriate departments) within a reasonable period of time after the Effective Date in order to obtain the approval of all appropriate City departments.

5.9 Permits and Approvals. The Developer shall obtain all permits, licenses and approvals required by the City Ordinances and State requirements for the Improvements to the Property and complete such Improvements, including without limitation the installation of all infrastructure and public amenities included but not limited to internal and external sidewalks, walkways, paths, utilities and landscaping, in a good and workmanlike manner in compliance with City Ordinances. The Developer shall also execute all necessary easements and agreements with the City of Plymouth and Wayne County. The Developer shall pay all filing fees, inspection and other fees and expenses, post or cause its contractors to post all bonds, letters of credit or other assurances as required by City Ordinances. The Developer shall post a performance bond in an amount to be determined by the Building Official.

5.10 Certificate of Occupancy. The City shall not be obligated and the Developer acknowledges that the City has no obligation under any circumstances to issue any temporary or permanent certificate of occupancy for the construction or improvement of or permit occupancy of any Improvements on the Property unless and until the work has been completed in accordance with the requirements of Section 5.2, provided the City will issue a temporary Certificate of Occupancy, when the requirements of Section 5.2, including the performance guarantees are satisfied. This remedy of the right to withhold the issuance of any temporary or permanent certificate of occupancy or permit occupancy of buildings or Improvements shall be in addition to and not in substitution of all remedies available to the City under this Agreement.

5.11 Construction Schedule. The Developer intends to construct the Project in a single phase. The Developer shall commence construction of the Project within one year following the Effective Date and shall diligently pursue construction to completion in accordance with City Ordinances, subject to any circumstances outside the Developer's control. Prior to the commencement of construction, the Developer shall submit to the City a Project construction schedule, the Developer's plans to provide temporary protective measures for surrounding properties, enclosure of the Project for construction matters. Upon request of the City, the Developer shall also submit to the City quarterly written construction progress reports in such form and detail as reasonably required by the City, describing the progress of construction to date, material matters affecting construction, a copy of the then construction schedule and explanations of changes in the construction schedule.

5.12 Completion Guaranty. The Developer shall deliver to the City a completion guaranty for the Project Improvements intended to be dedicated to the public. The completion guaranty shall cover final completion of the Project prior to the issuance of any building permits. The completion guaranty of the Developer shall be in the form attached as **Exhibit C**. All streets, utilities and other right-of-way improvements, whether public or private, shall be completed prior to the issuance of any building permits.

5.13 Indemnification. The Developer hereby indemnifies, defends and holds the City and its respective, commissions, authorities, boards, council members, elected and appointed officials, employees and volunteers, attorneys, consultants and advisors, agents and representatives (collectively, the “**Indemnified Parties**”) harmless from and against any and all claims, causes of action, in law or in equity, suits, arbitrators, administrative or governmental proceedings, demands, rights, contracts, agreements, promises, liens, encumbrances, liabilities, personal injuries and deaths, damages, losses, costs or expenses of any nature whatsoever (collectively, the “**Indemnified Claims**”), which may be incurred by the City arising out of the construction, ownership, maintenance and operation of the Project, any violations of Laws or City Ordinances by the Developer or any failure of the Developer to comply with the provisions of this Agreement.

5.14 Successors and Assigns. This Agreement shall run with the land and be binding upon the Parties, and their successors and assigns. The obligations of the Developer under this Agreement shall survive and shall be covenants that run with the land and bind Developer and its successors and assigns for the benefit of the City. The Developer shall have the right to sell, transfer, assign and/or mortgage all or any portion of the Property subject to the terms and conditions of this Agreement. All such conveyances shall be in accordance with Laws and City Ordinances. If the Property changes ownership, the terms and conditions of this Agreement shall be binding on any successor owner of the Property. The City acknowledges that this Agreement may be relied upon for the future land use and development of the Property by the Developer and its successors, assigns and transferees. Notwithstanding anything in this Agreement to the contrary, the Developer shall have no obligation to develop the Project.

ARTICLE 6

EVENTS OF DEFAULT AND REMEDIES

6.1 Default by Developer. Each of the following shall constitute an “**Event of Default**” by the Developer under this Agreement:

6.1.1 The Developer fails to comply with the construction schedule in violation of Section 5.4 above.

6.1.2 Prior to the completion of the Project, the Developer ceases doing business, makes a general assignment for the benefit of creditors, files a voluntary petition in bankruptcy or for reorganization, files an answer admitting the allegations in any creditor-filed petition for bankruptcy or reorganization, applies for or permits the appointment of a receiver, fails to have any bankruptcy, reorganization or liquidation proceedings instituted against it dismissed within ninety (90) days of filing, is unable to meet its obligations as they become due or otherwise seeks relief of any federal or state bankruptcy or insolvency laws.

6.1.3 The Developer’s failure to perform any of its obligations under this Agreement, including those set forth in Section 6.1.1, which remain uncured for a period of thirty (30) days following written notice by the City, unless the default cannot be cured through the exercise of good faith and due diligence (including the expenditure of necessary funds), in which event the Developer shall be entitled to an additional period of time to cure as reasonably determined by the City, but in no event beyond ninety (90) days, provided and so long as the Developer has diligently commenced the cure within such thirty (30) day period, completion of the cure within the thirty (30) days was not achievable by the exercise of due diligence and the Developer continues to prosecute the cure with due diligence and in good faith until cured.

6.2 Default Remedies of the City. The Developer shall be subject to the City's rights and remedies pursuant to Sec. 78-316(b)(3) of the Zoning Ordinance as its exclusive remedy in the event it does not timely develop the Project. Subject to the preceding sentence, upon the occurrence of an Event of Default by the Developer that remains uncured after the giving of such notice and failure to cure pursuant to Section 6.1, the City shall be entitled to the rights and remedies available at law or in equity.

6.3 Default Remedies of the Developer. Upon an occurrence of an Event of Default of the City, which remains uncured under any applicable grace periods, the Developer shall be entitled to the rights and remedies available at law or in equity.

6.4 Limitation of City's Liability. No City official, officer, employee, board member, commission member, elected or appointed official, attorneys, consultants, advisors, agents and representatives, shall be personally liable to the Developer for any default or breach by the City of any obligation under this Agreement or in any manner arising out of the performance of this Agreement by any Party.

ARTICLE 7 **NOTICES**

7.1 All notices, consents, approvals, requests and other communications (collectively referred to as "**Notices**") required or permitted under this Agreement shall be given in writing, signed by an authorized representative of the City or the Developer and mailed by certified or registered mail, return receipt requested, personally delivered, or sent by overnight courier for next day delivery to a Party as follows:

To City: Community Development Director
 CITY OF PLYMOUTH
 201 S. MAIN
 Plymouth, Michigan 48170

With a copy to:

To the Developer: Mill Street Ventures, LLC
 Attn: Eugene Sherizen
 26640 Harding
 Oak Park, Michigan 48237

With a copy to: Jerome P. Pesick, Esq.
 Steinhardt, Pesick & Cohen, P.C.
 380 N. Old Woodward Ave., Suite 120
 Birmingham, Michigan 48009

All such notices, certificates or other communications shall be deemed served upon the date of personal delivery, the day after delivery to a recognized overnight courier, or two days after mailing by registered or certified mail. Any Party may by notice given under this Agreement designate any further or different addresses or recipients to which subsequent notices, certificates or communications hereunder shall be sent.

ARTICLE 8 **MISCELLANEOUS**

8.1 Incorporation of Recitals. The Parties acknowledge and represent that the recitals in this Agreement are true and accurate and are hereby incorporated into this Agreement to be binding upon the Parties.

8.2 Entire Agreement. This Agreement and the attached exhibits set forth all of the covenants, agreements, stipulations, promises, conditions and understandings between the Developer and the City concerning the Final Site Plan and the Project. No prior or contemporaneous oral or written representations, statements, promises, agreements or undertakings made by either party or agent of either party, that are not contained in the Agreement shall be valid or binding. Neither the City, nor its respective board and commission members, elected or appointed officials, employees and volunteers, attorneys, consultants, advisors, agents and representatives, and boards, commissions and authorities, have made any covenant, agreement, stipulation, promise, condition or understanding, warranty or representation, either oral or written, other than set forth herein.

8.3 Amendment. This Agreement shall not be modified, altered or amended except by written agreement duly executed by the Developer and the City, as authorized by the City Commission. Any clerical errors or mistakes in the Agreement or its exhibits may be corrected by any of the parties, and all parties agree to cooperate in making such corrections in order to effectuate the intent of the parties in entering into this Agreement.

8.4 Third-Party Beneficiaries. Except for the rights and obligations of construction lenders and permanent lenders of the Developer for collateral security purposes, no term or provision of this Agreement is intended to be, or shall be, for the benefit of any Person not a Party hereto, and no such Person shall have any right or cause of action hereunder.

8.5 Invalidity. The invalidity of any article, section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, subsections, clauses or provisions hereof, which shall remain valid and be enforced to the fullest extent permitted by law.

8.6 Captions. The captions in this Agreement are inserted only as a matter of convenience and for reference in no way define, limit, enlarge or describe the scope or intent of this Agreement nor in any way shall affect this Agreement or any provision hereof.

8.7 Waiver. A Party may not waive any default, condition, promise, obligation or requirement applicable to the other Party hereunder, unless such waiver is in writing signed by an authorized representative of such Party and expressly stated to constitute such waiver. Such waiver shall only apply to the extent given and shall not be deemed or construed to waive any such or other default, condition, promise, obligation or requirement in any past or future instance. No failure by the City or the Developer to insist upon strict performance of any covenant, agreement, term or condition of this Agreement or to the exercise of any right or remedy in the event of default, shall constitute a waiver of any such default of such covenant, agreement, term or condition.

8.8 Conflicts. In the event of any conflict between this Agreement and any exhibit to this Agreement, or any other document executed pursuant to or in furtherance of this Agreement or the Project, this Agreement shall control. To the extent that the Agreement and exhibits conflict with City Ordinances, the terms of this Agreement and exhibits will control. In all events any reference to City Ordinances shall mean existing City Ordinances in effect at the time of execution of this Agreement.

8.9 Recording. This Agreement shall be recorded by the Developer with the Wayne County Register of Deeds.

8.10 Cumulative Remedies. The rights and remedies of the Parties set forth in this Agreement are not exclusive and are in addition to all other rights and remedies provided by law or in equity.

8.11 Governing Law. This Agreement shall be governed by, construed and enforced in accordance with, the laws of the State of Michigan. The Developer agrees, consents and submits to the personal jurisdiction of any competent court of jurisdiction of Wayne County, Michigan, for any action brought by the City against the Developer arising out of this Agreement. The Developer also agrees not to commence any action against the City because of any matter whatsoever arising out of, or relating to, the validity, construction, interpretation and enforcement of this Agreement in any courts other than those in the County of Wayne, State of Michigan.

8.12 Successors and Assigns. The covenants, conditions and agreements in this Agreement shall be binding upon and inure to the benefit of the Developer and the City, their respective legal representatives, successors and assigns.

8.13 Joint Drafting. This Agreement has been negotiated by the Parties and each Party has joined in and contributed to the drafting of this Agreement. Accordingly, there shall be no presumption favoring or burdening any one or more of the Parties hereto based upon draftsmanship.

8.14 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all such counterparts shall together constitute one and the same instrument.

8.15 Authority. The signers of this Agreement warrant and represent that they have the authority to sign this Agreement on behalf of their respective principals and the authority to bind each party to this Agreement according to its terms. Further, each of the parties represents that the execution of this Agreement has been duly authorized and is binding on such party.

IN WITNESS WHEREOF, the City and the Developer by and through their duly authorized representatives, have executed this Agreement as of the day and year first above written.

City of Plymouth,
a Michigan municipal corporation

By: _____

Its: Mayor

By: _____

Its: City Clerk

ACKNOWLEDGEMENT

STATE OF MICHIGAN)
) ss
COUNTY OF WAYNE)

The foregoing Agreement was acknowledged before me on the _____ day of _____, 2019, by _____ and _____, respectively the Mayor and City Clerk of the City of Plymouth, a Michigan municipal corporation, on behalf of the corporation.

_____, Notary Public
Wayne County, Michigan
My Commission Expires: _____
Acting in Wayne County

[Signatures continued on next page]

Mill Street Ventures, LLC, a Michigan
limited liability company

By: _____

Its: Authorized Agent/Member

ACKNOWLEDGEMENT

STATE OF MICHIGAN)
) ss
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this _____ day of _____, 2019, by _____, the _____ of Mill Street Ventures, LLC, a Michigan limited liability company, on behalf of the company.

_____, Notary Public
____ County, Michigan
My Commission expires: _____
Acting in _____ County

Prepared by and when recorded return to:

John D. Gaber
Williams, Williams, Rattner & Plunkett, P.C.
380 N. Old Woodward Ave., Suite 300
Birmingham, Michigan 48009

EXHIBIT A

Legal Description of Property

EXHIBIT B

Final Site Plan

See Attached

EXHIBIT C

Completion Guaranty

f. Adoption of DDA Budget

RES. #2019-28

WHEREAS Per Public Act 57 of 2018 the City Commission is required to approve the Downtown Development Authority Budget prior to adoption by their board; and

WHEREAS Consistent with the City section eight of the City Charter, the Downtown Development Authority has presented a balanced budget.

NOW THEREFORE BE IT RESOLVED, the City Commission of the City of Plymouth approves the 2019-20 Downtown Development Authority Budget as required per Public Act 57 of 2018.

A motion was made by Commissioner Moroz and seconded by Commissioner Thomey for approval of the above resolution.

Commissioner Krol confirmed that the City Commission has final approval on the DDA budget, including any revisions.

MOTION PASSED 7 – 0

g. Resolution of Support for Pulte Brownfield and Reimbursement Agreement

RES. #2019-29

WHEREAS The Brownfield Redevelopment Authority of the City of Plymouth reviewed and approved the Mill Street Towns Brownfield Plan and Reimbursement Agreement at their April 11, 2019 meeting; and

WHEREAS The City Commission of the City of Plymouth has approved the Rezoning of the site of the Mill Street Towns Development to Planned Unit Development and has adopted PUD Agreement for the site; and

WHEREAS The Brownfield Redevelopment Authority and the City Commission has supported the partnership with the Michigan Department of Environmental Quality (MDEQ); and

WHEREAS The City Commission considers this project to be transformational for the City of Plymouth and it will provide a significant improvement to the community.

NOW THEREFORE BE IT RESOLVED that the City Commission of the City of Plymouth has reviewed and supports the Brownfield Plan and Reimbursement Agreement as presented by the Brownfield Redevelopment Authority Board. Further, the City of Plymouth looks forward to the development of the Mill Street Towns Development to enhance the community and to transform that neighborhood.

A motion was made by Commissioner Moroz and seconded by Commissioner Krol for approval of the above resolution.

MOTION PASSED 7 – 0

REPORTS AND CORRESPONDENCE

a) City Commission Liaison Reports

Commissioner Thomey and Mayor Pro Tem Deal made the Commissioners aware of an upcoming events:

Wednesday, April 24, 2019- Police Awards Ceremony, Plymouth Cultural Center, 6:30 p.m. and the public is welcome to attend.

Saturday, April 27, 2019- Keeping Plymouth Leafy, Kiwanis Park, 10:00 a.m.

ADJOURNMENT

Hearing no further discussion, Mayor Wolcott asked for a motion to adjourn. A motion to adjourn was made by Commissioner Krol and seconded by Mayor Pro Tem Deal for adjournment of the meeting at 7:42 p.m.

MOTION PASSED 7 – 0