



**Regular City Council Meeting
 7:00 p.m., Monday, March 19, 2018
 City Council Chambers
 23600 Liberty Street
 Farmington, MI 48335**

FINAL

REGULAR MEETING MINUTES

A regular meeting of the Farmington City Council was held on March 19, 2018, 23600 Liberty Street, Farmington, MI. Notice of the meeting was posted in compliance with Public Act 267-1976.

The meeting was called to order at 7:00 PM by Mayor Pro Tem Sara Bowman.

1. ROLL CALL

Attendee Name	Title	Status	Arrived
Sara Bowman	Mayor Pro Tem	Present	
William Galvin	Councilmember	Present	
Joe LaRussa	Councilmember	Present	
Steve Schneemann	Mayor	Absent	
Maria Taylor	Councilmember	Present	

City Administration Present

- Director Christiansen
- Director Demers
- Director Eudy
- City Clerk Halberstadt
- City Manager Murphy
- City Attorney Schultz

2. PLEDGE OF ALLEGIANCE

Cub Scouts, Weeblos II Den from Pack 45 at Longacre Elementary School, led the Pledge of Allegiance.

3. PUBLIC COMMENT

Doug Reynolds, representing the Emergency Preparedness Commission, provided a tip of the month regarding preparations for weather and tornado events.

Todd Craft, recently elected President of the DDA, introduced himself to Council and the public. He looked forward to working with DDA Director Knight on DDA plans going forward. He thanked Rachel Gallagher, former DDA President, for her service to the Board and community.

4. APPROVAL OF ITEMS ON CONSENT AGENDA

- A. Accept minutes from City’s boards and commissions: Planning Commission, Emergency Preparedness Committee and Library Board**
- B. City Council Meeting Minutes
 Special – January 13, 2018**

- Special – February 20, 2018
 Regular – February 20, 2018
 Special – March 5, 2018
- C. Consideration to adopt resolution authorizing the City Manager to submit a reimbursement request to Oakland County for the West Nile Fund program
 - D. Farmington Public Safety Monthly Report
 - E. Special Event Applications
 - 1. Abhi Shah Foundation
 - 2. Relay for Life
 - 3. Swing Farmington
 - F. Consideration to amended property management contract, as approved by the DDA Board

Move to approve the consent agenda as presented.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Galvin, Councilmember
SECONDER:	Taylor, Councilmember

5. APPROVAL OF REGULAR AGENDA

Move to approve the regular agenda as presented.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	LaRussa, Councilmember
SECONDER:	Galvin, Councilmember

6. PRESENTATION/PUBLIC HEARINGS

A. Governor Warner Mansion Update – Director Kimberly Shay

Director Shay provided a Power Point presentation on the achievements and goals of the Warner Mansion.

Council questions covered plans for the carriage house, grant applications, and pursuit of National Historic Registry status.

B. Mike Csapo – RRRASOC

Mike Csapo, General Manager of RRRASOC, provided an update on the success of recycling in Southwest Oakland County. He offered 2017 solid waste and recycling dashboard metrics.

Discussion followed regarding the Away From Home Recycling Initiative, WiFi hot spot recycling bin, impact of new legislation on recycling, and the challenges of multi-family unit recycling. He noted Farmington once again has the highest recycling rate of the RRASOC member communities.

C. Council Member Bill Galvin – Financial Stability

Galvin gave a presentation on the financial stability of Farmington and the significant impact of reduced State Revenue Sharing and lower property tax revenue.

7. NEW BUSINESS

A. Consideration to Approve the Planned Unit Development Concept Plan and Agreement with the Ten Mile Development Group for the Redevelopment of the Former 47th District Courthouse Property

Present: Francis and Joseph Boji, Ten Mile Development Group, LLC

Christiansen reviewed the proposed Planned Unit Development (PUD) Concept Plan and corresponding PUD Development Agreement for the courthouse property. He discussed the steps already taken in the PUD approval process, noting that in January the Planning Commission approved the conceptual PUD plan. He stated the next step is for Council to approve the PUD concept plan and agreement with the Ten Mile Development Group.

Joseph Boji expressed appreciation to the City for the assistance they received in moving through the PUD process.

Responding to Galvin, Schultz stated there are no major differences between this PUD and previous PUD agreements, however, there are some minor details that will need to be addressed.

Move to approve Planned Unit Development Concept Plan and Agreement with Ten Mile Development Group, LLC, for development of 14-unit site condominium development on the Old Courthouse site, 32795 West Ten Mile Road, recognizing that the proposed project meets the eligibility requirements of a planned unit development for its high quality architectural design, extensive landscaping, and removal of the existing building and necessary environmental cleanup for redevelopment of a greyfield site. Approval is subject to the following conditions:

- 1. Finalizing sale of the property with the City of Farmington pursuant to the parties' purchase agreement.**
- 2. Ten Mile Development Group, LLC completing vacation of the existing cross-access easement agreement between the City and the Farmington Public Schools relating to the adjacent property, by or before final site**

plan approval and before any improvement approvals or permits are issued.

- 3. Final site plan approval by the Farmington Planning Commission that incorporates recommendations contained in the City’s staff and consultant reports.
- 4. All conditions and requirements set forth in the PUD Agreement, subject to final review by the City Manager and City Attorney, including any minor amendments deemed necessary as part of such review.

SEE ATTACHED CONCEPT PLAN AND AGREEMENT

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Taylor, Councilmember
SECONDER:	Galvin, Councilmember
ROLL CALL:	Galvin, LaRussa, Taylor, Bowman

B. Consideration to Approve Payment to Oakland County Treasurer for repairs to Nine Mile Retention Basin

Eudy discussed a 5-year capital improvement plan developed with Oakland County Water Resource Commission (OCWRC) for the Nine Mile Retention and Booster facilities and the proposed repairs for this year.

Move to approve payment to Oakland County Treasurer for repairs to Nine Mile Retention Basin Cell No. 2, in the amount of \$14,715.19.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	LaRussa, Councilmember
SECONDER:	Galvin, Councilmember
ROLL CALL:	LaRussa, Taylor, Bowman, Galvin

8. DEPARTMENT COMMENT

Weber announced the City collected 98.34% of the winter taxes. He stated this is the highest level collected since 2001.

Eudy discussed the challenges of the City budget and the impact on his department.

Responding to LaRussa, Eudy stated the City’s water infrastructure was completely installed by the late ‘60’s and early ‘70’s. He stated the average life of a water main is from 80-125 years. He commented that the American Water Works Association (AWWA) recommends that communities the size and environment of Farmington begin replacing 4% of its water mains every year. He noted Farmington has nearly 50 miles of water main.

Demers announced Public Safety will be holding a CPR training class for the public on Saturday, April 14th at 8:00 a.m. in City Hall.

9. CITY COUNCIL COMMENTS

LaRussa expressed appreciation to Galvin for his presentation on city finances and encouraged residents to participate in the upcoming civic engagement meetings. He asked the public to become involved in the upcoming elections and hold state candidates accountable for the lack of financial support to local government.

Galvin questioned where the state is spending its money in light of the fact that schools, roads, cities are all underfunded. He noted both political parties are blaming each other for this problem, but emphasized they need to work together to resolve these funding issues.

Bowman spoke about the upcoming Michigan Municipal League annual meeting in Lansing. She stated it is a great opportunity to share ideas with other communities.

10. ADJOURNMENT

Move to adjourn the meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Galvin, Councilmember
SECONDER:	LaRussa, Councilmember

The meeting adjourned at 8:55 p.m.

Sara Bowman, Mayor Pro Tem

Susan K. Halberstadt, City Clerk

Approval Date: April 16, 2018

Seat: _____

Title:
Concept Plan

Project:
**Liberty Hill
 Farmington, Michigan**

Prepared for:
 B&J Development
 31000 Northwestern Highway, Suite 145
 Farmington Hills, Michigan 48334
 248.762.6919

Revision:
 Issued:
 December 3, 2017

Job Number:
 17-040

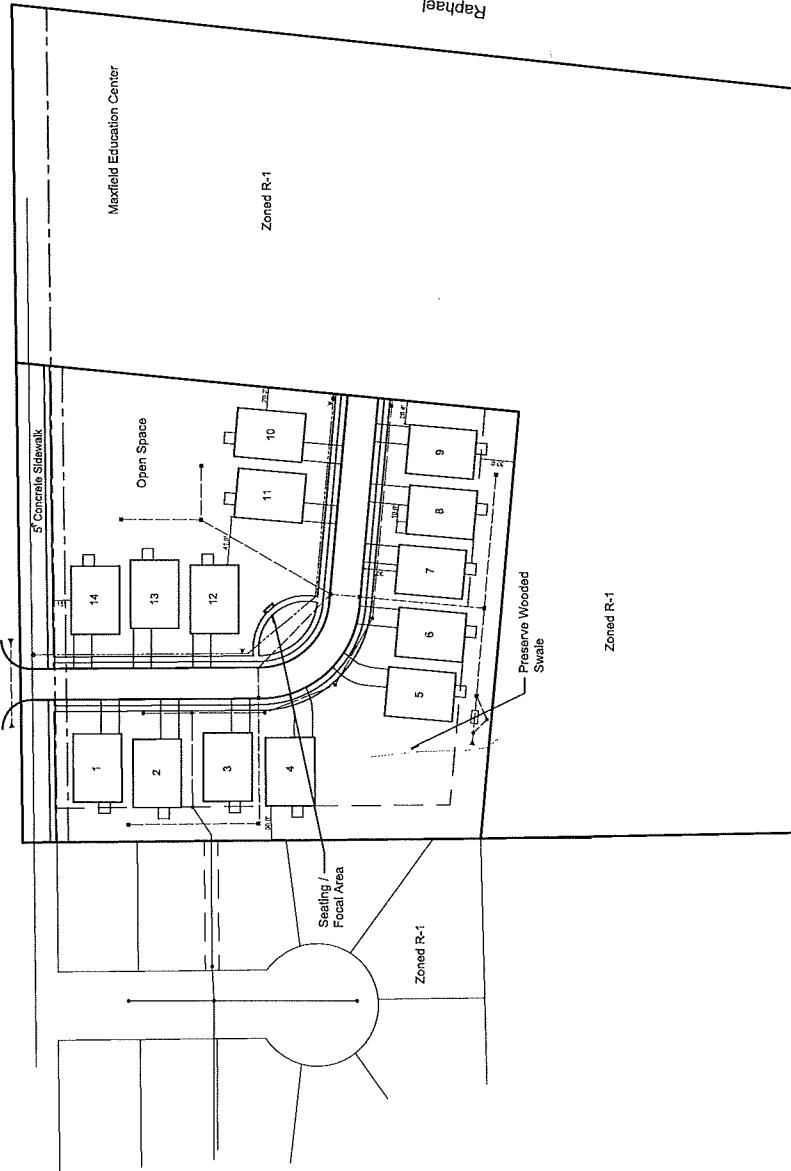
Drawn By:
 Jsa
 Checked By:
 Jsa



Sheet No. _____

City of Farmington Hills

Ten Mile



Raphael

Site Summary

Existing Zoning	R-1
Proposed Zoning	PUD
Gross Site Area	3.88 Acres
Net Site Area	3.59 Acres
Lot Size	0.29 Ac
Front Yard Setback	30'
Side to Side Setback	10'
Rear Yard Setback	30'
Street Frontage	3.88 Docks (14 / 3.59 Acres)
Driveway System	3.88 Docks (14 / 3.59 Acres)
Unit Size	437.60'

Seal: _____

Title: **Parallel Plan**

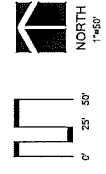
Project: **Liberty Hill
 Farmington, Michigan**

Prepared for:
 Bell Development
 31100 Northwestern Highway, Suite 145
 Farmington Hills, Michigan 48334
 248.762.2919

Revision: _____
 Issued: **December 5, 2017**

Job Number:
17-040

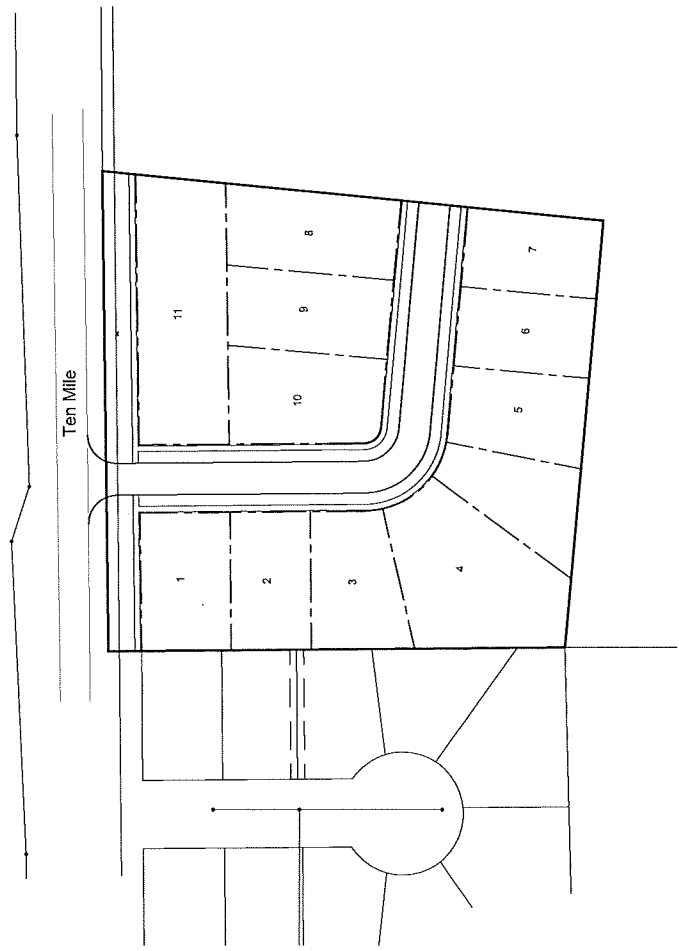
Drawn By: _____
 Checked By: **jam**



Sheet No. _____

Site Summary

Existing Zoning	R-1
Gross Site Area	3.88 Acres
Less ROW	0.29 Ac
Net Site Area	3.59 Acres
Lot Size	8,500 s.f. (70' x 121')
Front Yard Setback	25'
Side Yard Setback	25'
Rear Yard Setback	25'
Lots Shown	11 Lots



Raphael

Seat: _____

Title: **Concept Landscape Plan**
 Project: **Liberty Hill Farmington, Michigan**

Prepared for:
 Bill Checkoway
 31600 Northwestern Highway, Suite 145
 Farmington Hills, Michigan 48334
 248.752.6919

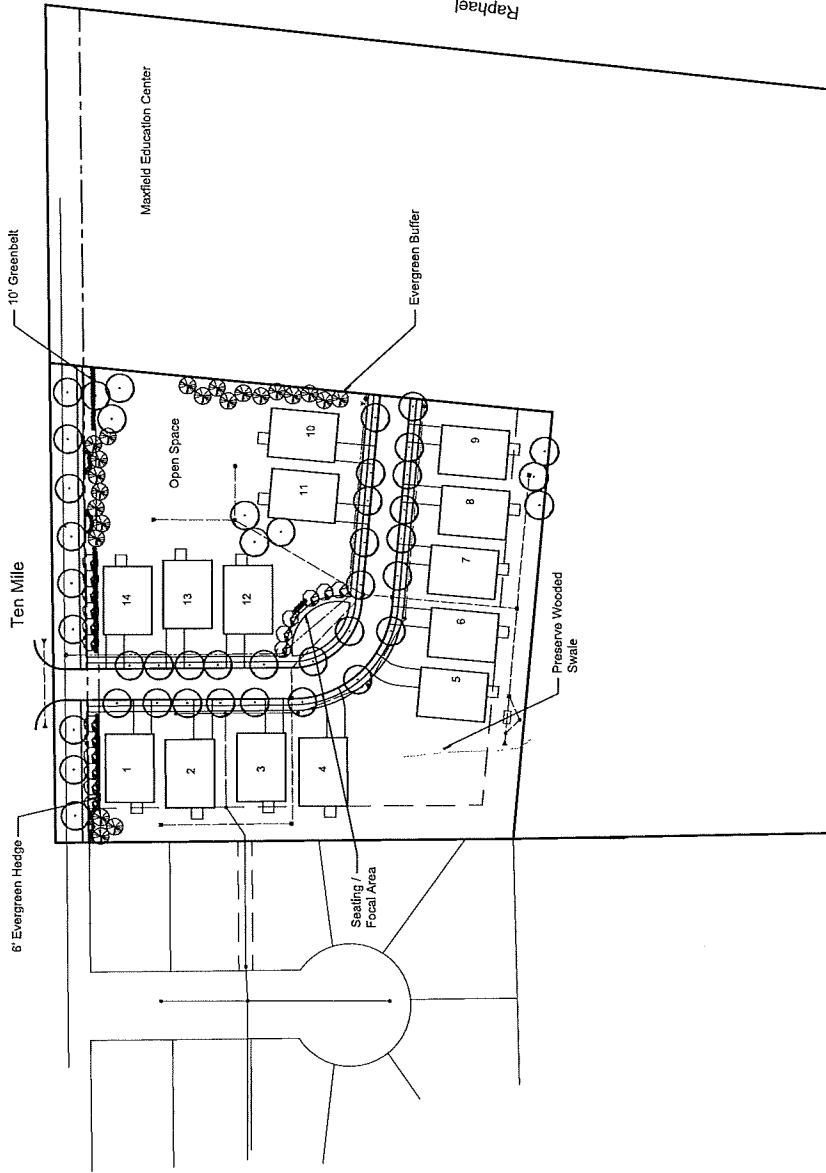
Revision: _____
 Issued: December 5, 2017

Job Number: _____
 17046

Drawn By: _____
 ja



Sheet No. _____



Landscape Summary

Plantings	422 LL
Tree Length	14 Trees (422 / 30)
Tree Required	0 Trees
Open Space	0 Trees
Ornamental Trees Required	12 Trees (422 / 30) x 6
Ornamental Trees Provided	12 Trees
Shrub Provided	83 Shrubs
Street Trees	95 LL
Street Plantings	26 Trees (95 / 40)
Street Plantings	26 Trees
Street Plantings	26 Trees

Legend

- 2.5' Deciduous Tree
- 8' Evergreen
- 2.0' Ornamental Tree
- 2.4' Shrub

**STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF FARMINGTON**

**LIBERTY HILL
PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT**

THIS AGREEMENT FOR PLANNED UNIT DEVELOPMENT (referred to herein as the "Agreement") made effective the ___ day of _____, 2018, by and between the CITY OF FARMINGTON, Oakland County, Michigan, herein called the "City", 23600 Liberty Street, Farmington, Michigan, 48336, and 10 MILE DEVELOPMENT GROUP, LLC, a Michigan limited liability company, whose address is 31000 Northwestern Highway, Farmington Hills, MI 48334, and its successors and assigns, herein called the "Developer."

BACKGROUND:

A. Developer is the purchaser (and upon the effective date of this Agreement will be the owners) of a parcel of real property (the "Property") within the City that is proposed for development as a single-family residential community, to be known as the "Liberty Hill" (generally referred to hereafter as the "Project"). The legal description of the Property is attached as **Exhibit A**.

B. Developer is pursuing approval of the Project as a Planned Unit Development ("PUD") pursuant to Article 10 of the City of Farmington Zoning Ordinance (the "Zoning Ordinance"). Conceptual Approval of Developer's PUD Concept Plan, attached as **Exhibit B**, has been granted pursuant to Article 10, subject to certain terms and conditions, by the City Council, following recommendation by the Planning Commission.

C. Article 10 contemplates the preparation of an agreement setting forth the conditions upon which the approval of the PUD Concept Plan has been granted, which in turn serves as the basis for Planning Commission site plan approval, and thereafter for the development, use, and maintenance of the Project. City Council approval of the agreement is required, and the contract is to incorporate and attach the concept plan, with final site plan approval to occur within two (2) years of entry into the PUD Agreement.

D. Set forth below are the terms and conditions of the Parties' agreement for the Project and the use of the Property, which such agreement is to be recorded with the Register of Deeds for the County of Oakland following execution by the Parties.

NOW, THEREFORE, FOR AND INCONSIDERATION OF THE FOREGOING, THE PARTIES AGREE AS FOLLOWS:

I. GENERAL PROJECT DESCRIPTION

The Parties entered into an Agreement on or about October 19, 2017, under which Developer agreed to purchase the Property from the City and confirming Developer's intention to develop the Property with the proposed Project. The Property is approximately 3.88 acres of land, bearing Parcel I.D. No. 23-27-126-004. The address is 32795 W. 10 Mile Road. The proposed Project is a residential community consisting of 14 single-family homes. The development will be set up as a site condominium. The Master Deed will establish a Homeowners' Association that will ultimately be responsible for maintenance of the general and limited common elements of the development.

The Project is located on the parcel of property currently owned by the City of Farmington. The purchase agreement between Developer and the City required the property to be developed pursuant to the PUD process set forth in the City's Zoning Ordinance, and closing was made contingent upon Developer securing approval of the PUD Concept Plan, which was granted by the City Council on _____, 2018.

The fact that the Developer agreed to develop the property with single-family homes of high architectural quality; that the Developer will remove the existing building (the former 47th District Courthouse) from the Property at its cost; that the Developer will undertake all required environmental cleanup activity (if any) at its expense; and that the Developer will provide landscaping improvements over and above those required by ordinance, as set forth herein, are all considered to be a public benefit by the City, without which the Project would not be approved.

II. EFFECT OF PUD AGREEMENT

A. This PUD Agreement consists of this text, along with the attached and incorporated PUD Concept Plan consisting of Sheets 1-3, Dated December 4, 2017 (full-sized original of the PUD Concept Plan on file in the City Clerk's office); the Concept Landscape Plan, dated December 5, 2017 (**Exhibit D**); and all conditions and requirements made part of the approved PUD Concept Plan. This Agreement is intended to serve as the contract contemplated under Section 35-135.A and Section 35-135.D of the Zoning Ordinance, and to establish the fundamental terms and provisions of subsequent final approval, construction, use, and maintenance of the Project. The final site plan for the Project submitted for Planning Commission approval shall substantially conform to the PUD Concept Plan, subject to and in accordance with the text of this Agreement, and as contemplated by Section 35-135.G of the Zoning Ordinance.

B. Approval of this Agreement authorizes Developer to pursue approval of a site plan in accordance with Section 35-135.G of the Zoning Ordinance, as amended, and any and all other applicable laws, ordinances and regulations, and with this Agreement and any conditions imposed with its approval.

C. This Agreement shall be binding upon and benefit the City and Developer, as well as their respective successors, assigns, and transferees, and shall run with the land.

D. Physical development of the Project shall be in accordance with the final site plan, and shall not be commenced until after the final site plan has been approved by the City, subject to and in accordance with applicable procedures.

E. Consistent with the City's ordinances and resolutions, as amended from time to time, the City may at its sole discretion require Developer to provide financial guarantees for the completion of improvements, including without limitation, roads, water mains, sanitary sewers, pump stations, storm drains, and landscaping.

III. USES PERMITTED

Uses permitted within the Project shall consist only of single-family detached homes and related site improvements, amenities, and open space as shown on the PUD Concept Plan, subject to the terms of this Agreement, and in accordance with the approved final site plan. The Project shall, except as otherwise provided in this Agreement, comply with the R-1 District regulations. All development and use shall be in accordance with this Agreement, applicable laws, regulations, and ordinances not inconsistent with this Agreement.

IV. DENSITY AND LOCATION

The Project shall consist of 14 single-family detached homes, which may be either 1 story or 2 stories, within a site condominium development. The location of the buildings shall be as shown on the PUD Concept Plan, within the building envelopes identified. The area and location of the lots shall be substantially as shown on the PUD Concept Plan, and in accordance with the approved final site plan. Minimum lot area shall be _____ square feet, which is a deviation from the _____ square foot minimum required by the Zoning Ordinance. Minimum lot width shall be ___ feet, which is a deviation from the ___-foot minimum required by the Zoning ordinance. Lot width shall, for purposes of this Project, be measured along the tangent of the setback as shown on the PUD Concept Plan.

V. YARD SETBACKS

Yard setbacks and lots shall conform to the R-1 regulations, except that:

1. The least side yard setback may be ___ feet, instead of 6 feet, and the total of both side yards may be ___ feet, instead of 16 feet. For corner lots (Units _____) the side yard setback on the street side may be reduced from 25 feet to ___ feet.

2. The front yard setback shall be a minimum of ___ feet to the garage and ___ feet to the front elevation of the house.

Decks, patios, and similar improvements may intrude into rear yards and outside the delineated building envelopes; however, such intrusion shall not result in any improvement being placed less than 5 feet from any property line. If adjacent to open space, such improvements shall extend no further than 10 feet from rear line of the building envelope.

VI. LANDSCAPING

Because the property is located both on a major thoroughfare (Ten Mile Road) and adjacent to residential properties to the west, additional landscaping is required. Landscaping shall be installed as shown on the ConceptLandscape Plan, set forth in Exhibit D, and in accordance with the final site plan, and thereafter regularly, professionally, and permanently maintained on the Property in a condition that provides maximum opacity. Notwithstanding the foregoing, at the time of site plan approval, the Planning Commission may require additional landscaping along 10 Mile Road and/or along the west property line.

VII. STREET TREES

Developer shall install the number and type of deciduous street trees in the right-of-way as shown on the Concept Landscape Plan and approved final site plan. Such trees shall be installed in the right-of-way in front of or adjacent to each unit before any certificate of occupancy is granted for that unit; provided, however, that the Building Official may allow Developer to defer the planting of any street tree if the development along a particular street is not substantially complete or if the tree cannot be planted because of weather conditions, but in such event shall establish a specific date upon which such tree shall be planted and Developer shall post cash or another financial guarantee acceptable to the City in an amount sufficient to defray the cost of planting the tree. If all of the street trees required are not planted within three (3) years of the date of this PUD Agreement, the City may (but is not obligated to) require Developer to post cash or another financial guarantee acceptable to the City to cover the cost of planting the remaining street trees. The City may, but is not obligated to, use the deposited guarantee to plant the trees adjacent to the undeveloped units. Within thirty (30) days after all of the required street trees have been planted, the City will return to Developer any cash or other financial guarantee not used to plant street trees.

VIII. PEDESTRIAN CIRCULATION

Sidewalks shall be constructed as shown on the PUD Concept Plan and final approved site plan. Details for proposed driveway crossings (at the front and side entrances) shall be provided on the site plan to ensure that they will not create a hazard for disabled citizens.

IX. TERMINATION OF SHARED DRIVEWAY EASEMENT

The parties acknowledge that, as of the effective date of this Agreement, there exists on the Property a shared asphalt driveway with the parcel to the east, owned by the Farmington Public School District. A driveway easement document dated January 19, 1979 is recorded at Liber 7438, Page 485, of the Oakland County Records. The parties agree that it is a requirement and condition precedent to the issuance of any final site plan approval and any permits or approvals for site improvements on the Property that the driveway easement be vacated and that the driveway itself be removed from the Property.

Developer agrees that it will undertake any and all required restoration of the easement area on the adjacent parcel to the specifications of the Farmington Public School District, including the planting of grass or landscaping materials as reasonably required by the School District in connection with the vacation of the easement. Developer also represents that it will, as part of the removal of the driveway on both parcels, take all steps necessary, and make all improvements necessary, to provide continued access to the adjacent Farmington Public Schools property to the

south. This includes, but is not limited to, removal or reinstallation of asphalt pavement, and painting and/or striping of the pavement. Developer acknowledges that an easement across the Property adjacent to the school parcel may be required in connection with continued access to the bus facility.

X. ON AND OFF-SITE IMPROVEMENTS

It is understood that certain on-site and off-site infrastructure improvements will be required for the Project, to be set forth in the final site plan and engineering plans, including improvements for storm water management, sanitary sewer, and public water, and that Developer shall be solely responsible for all costs and expenses of and associated with such improvements. The City has no obligation to construct or provide in any way for such improvements, and the City has made no guarantees, assurances, or representations with regard to the viability of any such improvements.

Developer shall convey to the City (or to the Road Commission for Oakland County, if required by the City) the full proposed right-of-way along the 10 Mile Road frontage, as shown on the PUD Concept Plan in a form and manner acceptable to the City, before issuance of any permits or approvals for site improvements.

XI. STORM WATER MANAGEMENT

Storm water shall be released from the Property and the Project in a manner to be approved by the City as part of final site plan review and engineering review. In general, the storm water shall be directed to an above-ground basin in the area shown on the Concept Plan. The storm water and drainage conveyance facilities shall be designed and constructed by Developer, and approved and inspected by the City, in accordance with all applicable City, County of Oakland, and State of Michigan ordinances, codes, regulations and laws. Developer shall be responsible for securing any off-site easements as may be required, at its sole cost and expense

XII. WATER AND SANITARY SEWER

Sanitary sewer and water are available to the Property. Developer shall, at its sole expense, construct and install improvements and/or connections tying into the municipal water and sewage systems. Such improvements shall be designed and constructed in accordance with the PUD Concept Plan and the approved final site plan, and all applicable City, State and County standards, codes, regulations, ordinances, and laws. Such water and sanitary sewer service facilities, including any on-site and off-site facilities, extensions, and easements to reach the area to be served, shall be provided by and at the sole expense of Developer, and shall be completed, approved, and dedicated to (as required by the City in its discretion) the City to the extent necessary to fully service all proposed and existing facilities, structures, and uses within the Development to be served thereby, prior to issuance of any building permits for any building in such phase of the Development.

If Developer chooses to seek building permits for the structure before completion of the completion, dedication, and acceptance of the water and sanitary sewage facilities, Developer shall be permitted to post security in the form of cash or an irrevocable and automatically renewing letter of credit approved by the City and issued by an institution doing business in

Oakland County, Michigan, in an amount equal to 125% of the cost of construction as specified in a bona fide contract for construction of such water and sanitary sewer system improvements to serve the Development, which estimate has been approved by the City Engineer, together with an agreement with the City, approved by the City Attorney, authorizing the City, at its option, to install the water system and/or sanitary sewer system for such phase if Developer has failed to do so within the time specified in the agreement. In such case, the aforementioned agreement shall also provide that the water and sanitary system facilities shall be completed and approved for the Development before issuance of any certificate of occupancy and in any event within nine (9) months after issuance of the first building permit in such phase.

Developer shall, upon completion of installation and testing of the public water and sanitary sewer improvements for each phase of the Development, convey and dedicate all interest in such facilities to the City by providing and executing documents and title work in accordance with all applicable City ordinances and requirements.

Developer shall not be required to pay any applicable availability fees, user connection fees or tap fees before connecting to the City's sanitary sewage or water supply systems.

XIII. TRAFFIC CIRCULATION/PUBLIC STREETS REQUIRED

One entrance shall be required on Ten Mile Road, in accordance with the PUD Concept Plan. The street shall be designed as local residential street with 60-foot right-of-way. The street shall be public and shall be dedicated to the City in accordance with the ordinances and standards of the City, subject to approval by the City Council, and following review and recommendation by the City Engineer and City Attorney. Such dedication shall include the fee simple title to the right-of-way and also the dedication of (and bill of sale for) any and all required public utilities (water mains, storms sewer, sanitary sewer) located therein.

All road improvements shall be in accordance with the design and construction standards of the City as determined by the City at the time of final Site Plan approval. At the time of this Agreement, it is the Developer's intent to install asphalt streets. The following additional requirements shall apply with regard to street acceptance:

- a. No certificate of occupancy, temporary or final, shall be issued until all site improvements required by an approved site or plot plan (except the final lift of asphalt) are constructed, installed, or placed on the property and final approval of same has been obtained from the City, together with any required performance guarantees is in place.
- b. At the time of 80% occupancy for the homes, but in no event more than two (2) years after the base course of asphalt is installed, the city engineer shall conduct an inspection to evaluate and determine the pavement conditions. Developer shall make any repairs required at that time, and may thereafter proceed with the installation of the final lift (wearing course) of asphalt, which shall in any event occur within six (6) months of such inspection and repair.
- c. The dedication and acceptance of the streets shall occur with forty-five (45)

days after installation of the final lift. The Developer shall submit an affidavit towards acceptance of streets to the city engineer before a final site inspection will be conducted. The following signed acceptance documents must be submitted to the city engineer in connection with the dedication/acceptance:

1. Bill of sale for each street conveying the improvements to the City.
 2. Contractor's sworn statement listing those parties and stating that all labor and material expenses incurred in connection with the subject construction improvements have been paid.
 3. A maintenance bond equal to twenty-five (25) percent of the cost of the construction of the streets to be accepted, in a form acceptable to the city attorney's office. The maintenance bond must be in effect for a period of two (2) years from the date of formal acceptance by city council.
- d. If at the time the final lift is completed all homes within the development have not received a temporary certificate of occupancy, the City shall require a site restoration guarantee to be posted, in the amount of \$2,500 in cash for every home then under construction and for any home for which a building permit is issued thereafter, in order to guarantee the physical integrity of the roads to be accepted in light of continuing construction activity. In the event there is damage or other prohibited condition to the street, or other public improvement, directly adjacent to the property for which the site restoration guarantee has been posted, there shall be a rebuttable presumption that the damage or condition has been caused by or in connection with the activity occurring under the building permit, and the City may use the guarantee to repair such condition if Developer fails to do so after written notice and opportunity to cure. If the amount of the guarantee is insufficient to repair or remedy the damage or condition, the City may require the posting of an additional guarantee. Developer shall at all times remain responsible for repair of any damage or condition actually caused by the construction activity. After the City has issued a Certificate of Occupancy for a home, the City shall return the \$2,500.00 cash bond related to that home, or the unused portion of that cash bond unless the entire amount of the cash bond has been used to make repairs as provided in this subparagraph.
- e. Upon issuance by the City of any permit authorizing the construction of the roads, public trust title to such roads shall be deemed to pass to the City, unless otherwise specifically indicated in the permit, and the dedication of such right-of-way by the applicant may not thereafter be withdrawn except with the consent of the City. However, no public road improvements within such underlying right-of-way (i.e., physical improvements such as utilities, curb and gutter, asphalt, or concrete) shall be deemed to have been accepted by the City and the City shall have no obligation or liability in respect of maintenance or repair of the street, until the street has been constructed, approved, and accepted by City Council, and the utilities have been accepted by the City. The City shall not be obligated to keep any street cleared, plowed, or otherwise maintained before the street has been completed, approved, and accepted by

City Council.

XIV. MECHANISM FOR PRESERVATION, REGULATION, MAINTENANCE AND FINANCE OF COMMON ELEMENTS, AREAS, AND IMPROVEMENTS

As part of final site plan review and approval, Developer shall submit to the City proposed covenants, restrictions and master deed and by-laws to be recorded for Liberty Hills (together referred to as "Covenants and Master Deed"). Before submitting the Master Deed to the City for approval, Developer shall create the Association referred to herein.

The Covenants and Master Deed shall be subject to review and approval by the City Attorney as part of final site plan approval.

As part of such Covenants and Master Deed, there shall be provisions obligating Developer until the Association becomes responsible for the maintenance of the common elements under the Master Deed, and then all future successor owners of lots or units within the Development and the Association to maintain, repair and preserve common areas, walkways, landscaping, signage, and any other common elements and improvements in and for Liberty Hills. Such maintenance, repair, and preservation shall be to a high standard of care.

The Covenants and Master Deed shall additionally provide that, in the event Developer or successor owners of the Property and/or the Association shall at any time fail to carry out one or more responsibilities or obligations relative to maintenance, repair, and/or preservation, the City shall have the right to serve written notice upon Developer or successor owners (through the Association), setting forth the deficiencies in maintenance, repair and/or preservation. The notice may also set forth a demand that such deficiencies be cured within a stated reasonable period of time, and further state a date, time and place of hearing before the City Council or other board, body or official delegated by the City Council, for the purpose of allowing Developer or successor owners to be heard as to why the City should not proceed with the maintenance, repairs and/or preservation which had not been undertaken. At the hearing, the City may take action to extend the time for curing the deficiencies, and the date of the hearing may itself be extended and/or continued to a date certain. If, following the hearing, the City shall determine that the maintenance, repairs and/or preservation have not been completed within the time specified in the notice, as such time may have been extended by the City, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents and/or contractors to enter upon the Property, and perform such maintenance, repairs and/or preservation as found by the City to be appropriate. The cost and expense of making and financing such maintenance, repairs and/or preservation, including the cost of all notices and hearing, including reasonable attorneys' fees, plus a reasonable administrative fee, shall be paid by Developer until the Association becomes responsible for the maintenance of the common elements under the Master Deed, and then the successor owners and the Association, and such amounts shall constitute a lien on all taxable portions of the Property. The City may require the payment of such monies prior to the commencement of any work.

If such costs and expenses have not been paid within thirty (30) days of a billing to Developer until the Association becomes responsible for the maintenance of the common elements under the Master Deed, or successor owners, through the Association, all unpaid amounts may be placed on the delinquent tax roll of the City as regards the taxable portions of the Property (allocated

among the several units or lots), and shall accrue interest and penalties, and shall be collected in the manner made and provided for the collection of delinquent real property taxes in the City. In the discretion of the City, such costs and expenses may also be collected by suit initiated against Developer until the Association becomes responsible for the maintenance of the common elements under the Master Deed, and then successor owners and the Association, and in such event, Developer until the Association becomes responsible for the maintenance of the common elements under the Master Deed, the successor owners and the Association, as the case may be, shall pay all Court costs and reasonable attorneys' fees incurred by the City in connection with such suit if the City obtains relief in such action.

Any failure or delay by the City to enforce any provision of the Covenants and Master Deed shall in no event be deemed or construed, or otherwise relied upon, as a waiver or estoppel of the right to eventually pursue and insist upon strict enforcement.

In all instances in which the City is authorized to pursue maintenance, repairs and/or preservation, as provided above, the City and its agents and contractors, shall be permitted, and are hereby granted authority, to enter upon all portions of the Property reasonably necessary or appropriate for the purpose of inspecting and/or completing the respective work.

XV. SIGNAGE

Signage shall be provided as set forth in the PUD Concept Plan and final approved site plan.

XVI. BUILDING ELEVATIONS/ARCHITECTURAL REQUIREMENTS

Because the Project is located on a main thoroughfare (Ten Mile Road) and in an existing residential area, the City has an interest in ensuring that the architecture of the buildings is of high quality and, at a minimum, is of a residential appearance and character that is compatible and harmonious with the homes in the surrounding areas. The building shall be of good and workmanlike construction, and constructed of quality materials, and shall be consistent in the City's sole discretion with the architectural features, design, materials, and elevations/appearance as set forth in the Developer's proposal.

XVII. PHASING

The project shall be developed in a single phase.

XVIII. GENERAL PROVISIONS

A. The Zoning Board of Appeals shall have no jurisdiction over the Property or the application of this Agreement.

B. Except as may be specifically modified by this Agreement, the City Code and all applicable regulations of the City shall apply to the Property. Any substantial violation of the City Code by Developer and/or any successor owners or occupants with respect to the Property shall be deemed a breach of this Agreement, as well as a violation of the City Code.

C. A breach of this Agreement shall constitute a nuisance per se which shall be abated.

Developer and the City therefore agree that, in the event of a breach of this Agreement by Developer, the City, in addition to any other relief to which it may be entitled at law or in equity, shall be entitled under this Agreement to relief in the form of specific performance and an order of the court requiring abatement of the nuisance per se. In the event of a breach of this Agreement, the City may notify Developer of the occurrence of the breach and issue a written notice requiring the breach be cured within thirty (30) days; provided, however, that if the breach, by its nature, cannot be cured within thirty (30) days, Developer shall not be in the breach hereunder if Proprietor commences the cure within the thirty (30) day period and diligently pursues the cure to completion. Failure to comply with such notice shall, in addition to any other relief to which the City may be entitled in equity or at law, render Developer liable to the City in any suit for enforcement for actual costs incurred by the City including, but not limited to, attorneys' fees, expert witness fees and the like.

D. This Agreement may not be amended except in writing signed by the parties and recorded in the same manner as this Agreement. In the event Developer desires to propose an amendment, an application shall be made to the City's Department of Community Development, which shall process the application in accordance with the procedures set forth in the Zoning Ordinance.

E. Both parties understand and agree that if any part, term, or provision of this Agreement is held by a court of competent jurisdiction, and as a final enforceable judgment, to be illegal or in conflict with any law of the State of Michigan or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provisions held to be invalid.

F. The Agreement shall be governed by the laws of the State of Michigan, both as to interpretation and performance. Any and all suits for any and every breach of this Agreement may be instituted and maintained in any court of competent jurisdiction in the County of Oakland, State of Michigan.

G. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. A delay in enforcement of any provision of this Agreement shall not be construed as a waiver or estoppel of the City's right to eventually enforce, or take action to enforce, the terms of this Agreement. All remedies afforded in this Agreement shall be taken and construed as cumulative; that is, all remedies afforded in this Agreement are in addition to every other remedy provided by law.

H. 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 parties.

I. This Agreement shall run with the land described herein as the Property and bind the parties, their heirs, successors, and assigns. This Agreement shall be recorded in the Oakland County Register of Deeds by the City. The parties acknowledge that the Property is subject to changes in ownership and/or control at any time, but that heirs, successors, and assigns shall take their interest subject to the terms of this Agreement, and all references to "Developer " in

this Agreement shall also include all heirs, successors, and assigns of Developer. The parties also acknowledge that the members of the City Council and/or the City Administration and/or its departments may change, but the City shall nonetheless remain bound by this Agreement.

J. Developer hereby represents and warrants that it intends to acquire the Property described on the attached Exhibit A in accordance with the Sale of Land Agreement between the parties.

K. Developer has negotiated with the City the terms of the PUD Concept Plan and this Agreement, and such documentation represents the product of the joint efforts and mutual agreements of Developer and the City. Developer fully accepts and agrees to the final terms, conditions, requirements and obligations of the PUD Documents, and Developer shall not be permitted in the future to claim that the effect of the PUD Concept Plan and Agreement results in an unreasonable limitation upon uses of all or a portion of the Property, or claim that enforcement of the PUD Concept Plan and Agreement causes an inverse condemnation, other condemnation or taking of all or any portion of the Property. Developer and the City agree that this Agreement and its terms, conditions, and requirements are lawful and consistent with the intent and provisions of local ordinances, state and federal law, and the Constitutions of the State of Michigan and the United States of America. Developer has offered and agreed to proceed with the undertakings and obligations as set forth in this Agreement in order to protect the public health, safety, and welfare and provide material advantages and development options for the Developer, all of which undertakings and obligations Developer and the City agree are necessary in order to ensure public health, safety, and welfare, to ensure compatibility with adjacent uses of land, to promote use of the Property in a socially, environmentally, and economically desirable manner, and to achieve other reasonable and legitimate objective of the City and Developer, as authorized under applicable City ordinances and the Michigan Zoning Enabling Act, MCL 125.3101, *et seq.*, as amended.

Developer fully accepts and agrees to the final terms, conditions, requirements, and obligations of this Agreement, and Developer shall not be permitted in the future to claim that the effect of this Agreement results in an unreasonable limitation upon use of all or any portion of the Property, or to claim that enforcement of this Agreement causes an inverse condemnation or taking of all or any portion of such property. It is further agreed and acknowledged that the terms, conditions, obligations, and requirements of this Agreement are clearly and substantially related to the burdens to be created by the development and use of the Property under the approved PUD Concept Plan, and are, without exception, clearly and substantially related to the City's legitimate interests in protecting the public health, safety and general welfare.

L. Developer acknowledges that, at the time of the execution of this Agreement, Developer has not yet obtained site plan and engineering approvals for the Project. Developer acknowledges that the Planning Commission and Engineering Consultant may impose additional conditions other than those contained in this Agreement during site plan reviews and approvals as authorized by law; provided, however, that such conditions shall not be inconsistent with the PUD Concept Plan or documents and shall not change or eliminate any development right authorized thereby. Such conditions shall be incorporated into and made a part of this Agreement, and shall be enforceable against Developer.

M. None of the terms or provisions of this Agreement shall be deemed to create a partnership or joint venture between Developer and the City.

N. The recitals contained in this Agreement and all exhibits attached to this Agreement and referred to herein shall for all purposes be deemed to be incorporated in this Agreement by this reference and made a part of this Agreement.

O. This Agreement is intended as the complete integration of all understandings between the parties related to the subject matter herein. No prior contemporaneous addition, deletion, or other amendment shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent notation, renewal, addition, deletion or other amendment shall have any force or effect unless embodied in a written amendatory or other agreement executed by the parties required herein, other than additional conditions which may be attached to site plan approvals as stated above.

P. The parties intend that this Agreement shall create no third-party beneficiary interest except for an assignment pursuant to this Agreement. The parties are not presently aware of any actions by them or any of their authorized representatives which would form the basis for interpretation construing a different intent and in any event expressly disclaim any such acts or actions, particularly in view of the integration of this Agreement.

Q. Where there is a question with regard to applicable regulations for a particular aspect of the development, or with regard to clarification, interpretation, or definition of terms or regulations, and there are no apparent express provisions of the PUD Concept Plan and this Agreement which apply, the City, in the reasonable exercise of its discretion, shall determine the regulations of the City's Zoning Ordinance, as that Ordinance may have been amended, or other City Ordinances that shall be applicable, provided that such determination is not inconsistent with the nature and intent of the PUD Documents and does not change or eliminate any development right authorized by the PUD documents. In the event of a conflict or inconsistency between two or more provisions of the PUD Concept Plan and/or this Agreement, or between such documents and applicable City ordinances, the more restrictive provision, as determined in the reasonable discretion of the City, shall apply.

R. Both parties acknowledge and agree that they have had the opportunity to have the PUD Concept Plan, and this Agreement, reviewed by legal counsel.

S. Notwithstanding the foregoing, Developer retains the right at any time prior to commencement of construction of the improvements contemplated by the PUD Concept Plan and this Agreement to terminate the PUD subject to and in accordance with the requirements of the Zoning Ordinance applicable to such a termination.

CITY OF FARMINGTON

By: Steven Schneemann
Its: Mayor

By: Susan K. Halberstadt

Its: Clerk

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2018, by Steven Schneemann, Mayor, and Susan K. Halberstadt, Clerk, on behalf of the City of Farmington, a Municipal Corporation.

Notary Public
_____ County, MI
Acting in Oakland County
My Commission Expires: _____

10 MILE DEVELOPMENT GROUP, LLC,
a Michigan limited liability company

By:
Its:

The foregoing instrument as acknowledged before me in Oakland County, Michigan, on this ____ day of _____, 2018, by _____, the _____ of 10 Mile Development Group, LLC, a Michigan limited liability company, on behalf of the company.

Notary Public
_____ County, MI
Acting in Oakland County
My Commission Expires: _____

Drafted by:
Thomas R. Schultz
Johnson Rosati Schultz & Joppich, PC
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331-3550

When recorded return to:
Susan K. Halberstadt, City Clerk
City of Farmington
23600 Liberty Street