

CITY OF ROCHESTER HILLS

SECOND AMENDMENT TO PLANNED UNIT DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO PLANNED UNIT DEVELOPMENT AGREEMENT, is made and entered into effective as of the _____ day of _____, 2015, by and among the City of Rochester Hills, a Michigan municipal corporation ("City"), whose address is 1000 Rochester Hills Drive, Rochester Hills, Michigan 48309, and CW Owner, LLC, a Michigan limited liability company ("Developer") as successor in interest to City Walk, LLC, a Michigan limited liability company) whose address is 37020 Garfield, Suite T-1, Clinton Township, Michigan 48036.

RECITALS

A. **WHEREAS**, the Developer has developed property which constitutes approximately 12.4 acres of neighborhood retail shopping at the southeast corner of Rochester Road and Tienken Roads in the City ("Property"), as described on Exhibit A attached hereto;

B. **WHEREAS**, the Planned Unit Development Agreement dated June 29th, 2005 by Developer and City ("Agreement"), as recorded in Liber 37059 Page 719, does not permit mixed residential and commercial use buildings, Developer and City desire to accommodate mixed use residential and commercial buildings at the Property as outlined herein;

NOW, THEREFORE, the Developer and the City agree as follows:

1. Incorporation of Recitals. The parties acknowledge and represent that the foregoing recitals are true and accurate and are hereby incorporated into this Second Amendment To Planned Unit Development Agreement.

2. Section 4(15) of the Agreement is deleted in its entirety and the following substituted in its place:

- (15) Residential dwelling units shall be permitted on the ground floor in addition to any upper floor level or levels. Associated accessory structures shall be permitted.

3. Section 13 of the Agreement is amended by inserting the following at the end of Section 13:

Notwithstanding the foregoing, the Building D location as shown in the Final PUD Plan may be constructed as multiple separate buildings, and there shall be no separation requirements between these buildings and between buildings and other accessory use structures. The total number of residential dwelling units constructed in the Building D location shall be any number from 52-60 units.

4. No Prior Defaults. Developer and City hereby acknowledge and warrant that no prior default (or defaults) presently exists under the Agreement and each party is presently in good standing with respect to the Agreement. Furthermore, the Agreement is in full force and effect and hereby ratified.

5. Conflict: Except as further modified herein, the Agreement, as amended by the First Amendment to Planned Unit Development Agreement, remains in full force and effect. In the event of conflict, between the Agreement, the First Amendment to Planned Unit Development Agreement, and this Second Amendment to Planned Unit Development Agreement, the later shall prevail.

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

In the Witness of:

DEVELOPER:

CW Owner, LLC, a Michigan limited liability company

By: _____
Paul Aragona,

Its: Manager

CITY:

CITY OF ROCHESTER HILLS, a Michigan Municipal corporation

By: _____

Its: _____

STATE OF MICHIGAN)
) SS.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2015, by _____, the _____ of CW Owner, LLC, a Michigan limited liability company, on behalf of said limited liability company.

Notary Public

County, MI
My Commission Expires: _____

STATE OF MICHIGAN)
) SS.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2015, by _____, the _____ and _____, the _____ of the City of Rochester Hills, a Michigan municipal corporation, on behalf of said municipal corporation.

Notary Public

County, MI
My Commission Expires: _____
My Commission Expires: _____

Drafted by and after recording, return to:
Frank S. Aragona
37020 Garfield, Suite T-1
Clinton Township, MI 48036

EXHIBIT A
Legal Description of Property