

**VILLAGE OF YELLOW SPRINGS, OHIO
RESOLUTION 2022-70**

APPROVING A PRELIMINARY PLAT PLAN FOR MILLWORKS PUD

WHEREAS, at their regular meeting on November 15, 2022, following a public hearing, Planning Commission approved a preliminary plat plan for the Millworks PUD located at 305 North Walnut Street and 185 Yellow Springs-Fairfield Road; Greene County Parcel ID Numbers: F19000100110025900; F19000100110026700; F19000100110032400; F19000100110032500, and;

WHEREAS, Planning Commission unanimously recommends that Council allow the Millworks PUD to have an underlying zoning of I-1, Mixed Use Industrial, B-2 General Business District and five uses allowed in the B-1, Central Business District as follows: Art galleries, museums and similar cultural facilities; Assembly and performance halls; Community centers and senior centers; Cultural buildings and Bicycle sales, rental and repair,

NOW THEREFORE, Council for the Village of Yellow Springs, Ohio hereby resolves that:

Section 1. Council hereby concurs with Planning Commission's findings regarding qualifying conditions.

Section 2. Council accepts Planning Commission's recommendations and approves the preliminary plat plan for Millworks PUD allowing for uses of underlying zoning of I-1, Mixed Use Industrial, B-2 General Business District and five uses allowed in the B-1, Central Business District as follows: Art galleries, museums and similar cultural facilities; Assembly and performance halls; Community centers and senior centers; Cultural buildings and Bicycle sales, rental and repair.

Section 3. Council hereby authorizes the Village Manger to enter into a PUD Agreement in a form substantially similar to the draft Agreement attached hereto as Exhibit A.

Signed: _____

Brian Housh, President of Council

Passed: 12-5-2022

Attest: _____

Judy Kintner, Clerk of Council

ROLL CALL:

Brian Housh __Y__

Kevin Stokes __Y__

Marianne MacQueen __Y__

Carmen Brown __Y__

Gavin DeVore Leonard __Y__

PLANNED UNIT DEVELOPMENT AGREEMENT

This Planned Unit Development Agreement (the “Agreement”) is made this ____ day of _____, 2022, by and between APR Investments LLC, an Ohio limited liability company, (the “Developer”), and the Village of Yellow Springs, Ohio an Ohio municipal corporation (the “Village”).

RECITALS

WHEREAS, on April 1, 2019 the Village adopted Ordinance No. 2019-06, (such ordinance and any exhibits thereto together, the “PUD Ordinance”), attached hereto and incorporated herein by reference as **Exhibit A**, amending the zoning map of the Village to rezone the property depicted in **Exhibit B** (the “Property”) attached hereto and incorporated herein by reference, from I-1 to PUD;

WHEREAS, pursuant to Chapter 1254 of the Yellow Springs Codified Ordinances, the Property is to be developed in accordance with certain standards;

WHEREAS, pursuant to Section 1254.05(e) of the Yellow Springs Codified Ordinances, prior to the issuance of any building permits or commencement of construction of any portion of the Property, the Developer shall enter into an agreement with the Village, in recordable form, setting forth the Developer’s obligations with respect to the Property;

WHEREAS, a final development plan was approved by the Village Planning Commission, which is attached hereto and incorporated by reference as **Exhibit C**; and

NOW, THEREFORE, pursuant to the covenants, agreements, and pledges contained herein, the Developer and the Village do hereby agree that the Property shall be developed in accordance with the provisions set forth herein:

1. **Applicable Standards.** The Developer shall develop the Property and construct all improvements thereon in accordance with all applicable standards set forth in the Village’s codified ordinances, or any other applicable state or local requirements.

2. **Final Development Plan and Approved Uses.** Developer shall adhere to the final development plan, and all applicable conditions attached to the approval by the Village. The only uses allowed within the PUD are those specifically approved by the Village. Any change in uses shall be considered a major change and will be processed accordingly.

3. **Remedies.** The parties acknowledge that monetary damages for a breach of this Agreement may be inadequate to compensate the Village. Accordingly, the parties expressly agree that, for so long as Developer owns any portion of the Property, in the event of a violation of this Agreement, with respect to such violation, the Village shall be entitled to receive specific performance. Nothing herein shall be deemed a waiver of the Village's rights to seek enforcement of this Agreement or zoning approvals previously granted, to the extent otherwise authorized by law. Notwithstanding the foregoing, in the event there is a violation(s) or alleged violation(s) of the terms or conditions of this Agreement by the Developer, then the Village shall serve written notice upon the Developer setting forth the manner in which Developer has violated the Agreement, and such notice shall include a demand that the violation(s) be cured within a stated reasonable time period. Should a court of competent jurisdiction find the Developer to be in breach of any provision of this Agreement or the PUD approval (in whole or in part), then the Developer shall be required to reimburse the Village for its reasonable attorney fees and costs in connection with the enforcement of such breach. Additionally, the Village shall have the right to utilize stop work orders as appropriate for any violations. All of the remedies of the Village under this Agreement, the Village's Zoning Ordinance, and state law shall be deemed to be cumulative. In the event of default of this Agreement by the Developer, the Village shall be entitled to any remedies available at law or in equity. The remedies available to the Village in this Section 4 shall be binding on any successors in interest in the Property to the Developer.

4. **Recording and Binding Effect.** This Agreement and the approved final development plan applicable to the Property shall be binding on all successors in title as to the Property (as well as any and all portions thereof), including but not limited to, successor developers and the purchasers and owners of any individual lot, parcel, or unit within the Property. This Agreement shall be recorded in the Recorder's Office of Greene County, Ohio.

5. **Miscellaneous.**

a. **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 constructed in all respects as if any invalid or unenforceable provision were omitted.

c. **Governing Law.** This Agreement is being executed and delivered and is intended to be performed in the state of Ohio and shall be constructed and enforced in accordance with, and the rights of the parties shall be governed by, the laws thereof. The parties herein agree to submit to the personal jurisdiction and venue of a state court with subject matter jurisdiction located in Greene County, Ohio.

d. **Headings and Recitals.** The parties acknowledge and agree that the headings and subheadings in this Agreement are for convenience only and shall have no bearing or effect. The parties acknowledge and agree, however, that the recitals hereto are and shall be

considered an integral part of this agreement proper to its correct understanding and interpretation.

e. Authorization. The parties affirm that their representatives executing this Agreement on their behalf are authorized to do so (and can fully bind their respective party) and that all resolutions or similar actions necessary to approve this Agreement have been adopted and approved. The Developer further affirms that it is not in default under the terms of any land contract for all or part of the Property.

f. Fees. The Developer shall pay any and all applicable building permit, zoning, and other fees to the Village.

g. Changes to Final Development Plan. Any changes to the approved final development plan shall comply with the Zoning Ordinance.

h. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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Exhibit A to DRAFT Exhibit 1
VILLAGE OF YELLOW SPRINGS, OHIO

ORDINANCE 2019-06
AMENDING THE OFFICIAL ZONING MAP OF THE VILLAGE OF YELLOW SPRINGS, OHIO FOR THE PROPERTY KNOWN AS "MILLWORKS" IDENTIFIED BY THE FOLLOWING GREENE COUNTY PARCEL ID NUMBERS: F19000100110025900 AND F19000100110026700 FROM "I-1" MIXED USE INDUSTRIAL TO "PUD" PLANNED UNIT DEVELOPMENT

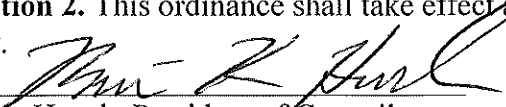
Whereas, the Planning Commission, following a work session on February 5, 2019 and a public hearing with deliberations on February 12, 2019, made certain findings and recommendations pertaining to an application submitted by Millworks, LLC and its principal, Jessica Yamamoto requesting that the official zoning map for the Village of Yellow Springs be amended from I-1 Mixed Use Industrial to "PUD" Planned Unit Development for the Property known as "Millworks" with the Greene County Parcel ID Numbers: F19000100110025900 and F19000100110026700 (the "Property"); and

Whereas, Village Council on March 4, 2019 received the findings and recommendations from the Planning Commission and voted to approve the rezoning request for the Property and to amend the official zoning map from I-1 Mixed Use Industrial to "PUD" Planned Unit Development for the Property,

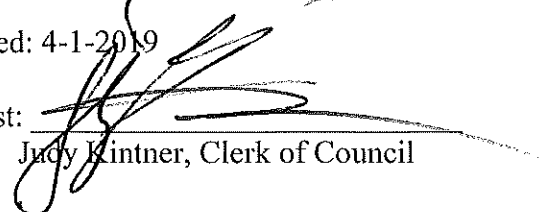
NOW, THEREFORE, COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY ORDAINS THAT:

Section 1. Village Council hereby amends the official zoning map from I-1 Mixed Use Industrial to "PUD" Planned Unit Development for the Property known as "Millworks" with the Greene County Parcel ID Numbers: F19000100110025900 and F19000100110026700.

Section 2. This ordinance shall take effect and be in full force at the earliest date permitted by law.


Brian Housh, President of Council

Passed: 4-1-2019

Attest: 
Judy Kintner, Clerk of Council

ROLL CALL

Brian Housh __Y__ Marianne MacQueen __Y__ Kevin Stokes __Y__
Lisa Kreeger __Y__ Kineta Sanford __Y__

Exhibit B to DRAFT Exhibit 1
Map of the Property

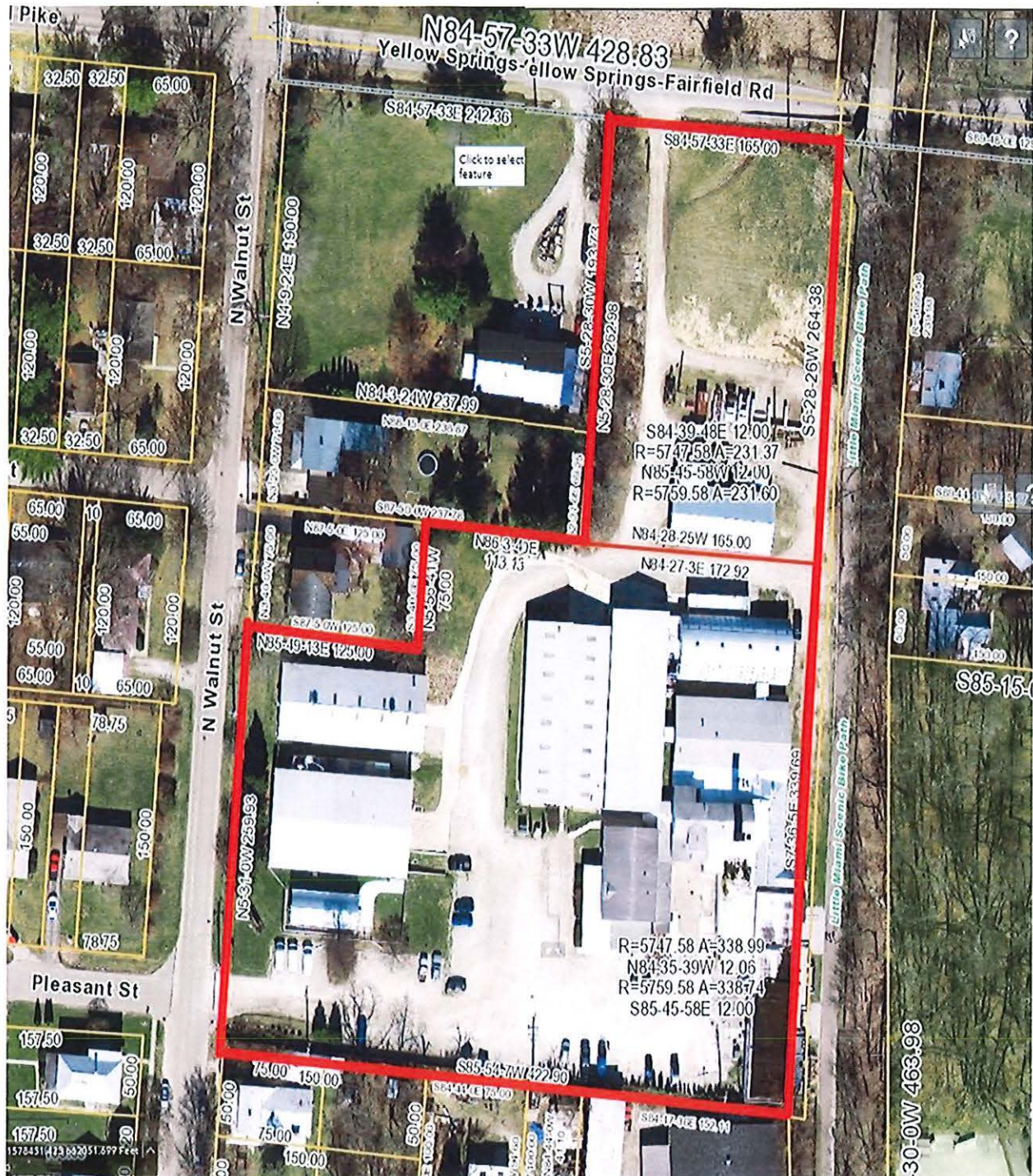


Exhibit C to Exhibit 1
Final Development Plan

(See Attached)

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