

This Instrument Drafted By:
Hoff Barry, P.A. (SBL)
100 Prairie Center Drive, Suite 200
Eden Prairie, MN 55344

PLANNED UNIT DEVELOPMENT AGREEMENT

THIS PLANNED UNIT DEVELOPMENT AGREEMENT (hereinafter referred to as “**Agreement**”) is entered into this ___ day of _____, 2022 (hereinafter referred to as the “**Effective Date**”), by and between U.S. HOME CORPORATION, a Delaware corporation, (hereinafter referred to as “**Developer**”) and the CITY OF MAPLE GROVE, a Minnesota municipal corporation (hereinafter referred to as “**City**” Developer and City sometimes individually referred to as “**Party**” and collectively “**Parties**”).

RECITALS:

WHEREAS, Developer is the fee owner and intends to develop a parcel or parcels of land lying within the City and legally described on attached Exhibit 1 (hereinafter referred to as the “**Property**”); and

WHEREAS, on June 6, 2022, the City Council passed Resolution No. 22-100 (hereinafter referred to as the “**City Resolution**”) conditionally approving the Planned Unit Development (hereinafter referred to as “**PUD**”) – Concept Stage Plan, PUD - Development Stage Plan, preliminary plat, and final plat to develop the Property into a 82-unit townhome development, which approvals consist of: (i) the PUD – Concept Stage Plan and PUD – Development Stage Plan plans for the Property, drafted by James R. Hill, Inc., dated June 28, 2021 (hereinafter referred to as the “**Plans**”), which Plans Title Sheet is attached as Exhibit B to the City Resolution; (ii) the Plans include the unit floor plans and elevations that were part of the City Council’s May 16, 2022 agenda as Attachment C; (iii) the preliminary plat for the Property drafted by James R. Hill, Inc. (hereinafter referred to as the “**Preliminary Plat**”), which Preliminary Plat is Sheet C2.0 of the Plans; and (iv) and the final plat for Weston Commons 2nd Addition, drafted by James R. Hill, Inc. (hereinafter referred to as the “**Final Plat**”); and

WHEREAS, On June 6, 2022, the City Council conditionally enacted Ordinance No. 22-11, which rezoned the Property from R-A, Single-Family Agricultural to R-4 PUD, Medium Density Residential Planned Unit Development; and

WHEREAS, the proposed development of the Property has a residential component and is subject to the PUD division of the City Code pursuant to City Code §36-62(a). City Code §36-65 requires all applications subject to the PUD division of the City Code with a residential component to be assessed and reviewed simultaneously against the Project Point System (hereinafter referred to as the “**PPS**”). City Code §36-65(d) requires that subject developments achieve a minimum score of 75 percent of the total points possible under the PPS; and

WHEREAS, under Resolution No. 21-019, the proposed development of the Property was assessed against the PPS and received a score of 78.2 percent. The PPS score is based upon the Plans. The Plans include, among other things, the Project Points System Application/Self Scoring Worksheet (hereinafter referred to as the “**Architectural Elements**”), which Architectural Elements are attached hereto as Exhibit 2 and are incorporated herein; and

WHEREAS, this Agreement is entered into for the purpose of setting forth and memorializing the understandings and agreements of the Parties concerning the use of the Property as a PUD and in accordance with the Resolution and City Code, and to provide subsequent owners of the Property knowledge of the limitations and obligations of the Parties concerning the Property.

NOW, THEREFORE, it is hereby and herein mutually agreed, in consideration of promises and considerations of City and Developer herein set forth, as follows:

1. **INCORPORATION**. The above Recitals, the City Resolution, the Plans, the Final Plat, and all exhibits attached to this Agreement are a material part of this Agreement and are incorporated herein.
2. **ZONING**. The zoning of the Property is R-4 PUD, Medium Density Residential Planned Unit Development. The R-4, Medium Density Residential Planned Unit Development zoning district shall apply to the Property, except as modified by the City Resolution, the Plans, and this Agreement.
3. **DEVELOPMENT; MAINTENANCE**. Development of, construction on and maintenance of the Property shall be done in accordance with and shall comply, at all times, with the Plans, the City Resolution, this Agreement and all applicable sections of the City Code and other governmental rules and regulations. Notwithstanding, the Plans and the Architectural Features and all plans for construction of primary residences on individual lots of the Property are subject to the review and approval of the City for compliance with the Plans and Architectural Features at the time application is made for a building permit. Such applicants must make all changes to said construction plans as required by the City. If an applicant does not make the required changes, the City shall not issue the building permit requested by such applicant.
4. **PLANNED UNIT DEVELOPMENT REQUIREMENTS**. The Developer shall comply with all of the requirements set forth in the City Resolution, including, but not limited to, Section 3 of the City Resolution to the satisfaction of the City and prior to the issuance of any permits for the development of the Property.
5. **IRRIGATION**. An irrigation reduced pressure zone (hereinafter referred to as “**RPZ**”) is required for any irrigation systems and must be installed by the Developer and/or eventual lot owner and tested in accordance with the Minnesota Department of Health Guidelines for Designing Backflow Prevention Assembly Installations (hereinafter referred to as “**Guidelines**”). The initial test results and certification shall be submitted to the City of Maple Grove Public Works

Department. Subsequently, the RPZ must be tested, per the Guidelines, at least annually by a certified tester with the results reported to the City of Maple Grove Building Department and the RPZ must be rebuilt as needed in accordance with the Guidelines. Test/rebuilt reports shall be mailed or faxed to the City of Maple Grove Building Department at (763) 494-6424. The irrigation system shall be designed, and the Plans shall be modified accordingly, prior to the issuance of any permits for the development of the Property, to accommodate a 1-inch water meter and a maximum flow of fifty (50) gallons per minute.

6. **DEVELOPER TO PAY ALL COSTS.** Developer shall pay, within thirty (30) days of demand, all reasonable expenses that the City incurs in direct relation to the development of the Property and this Agreement. Said expenses shall include, but are not limited to, staff, engineering, legal and other consulting fees reasonably incurred in relation to this Agreement.
7. **VIOLATION OF AGREEMENT.** In the event the Developer, or their respective successors or assigns, violates any of their respective covenants or agreements herein contained, and such violation is not corrected, or commenced to be corrected by the Developer, (which correction shall be diligently and promptly pursued and completed), within thirty (30) days after written notice specifying such violation, and unless a different cure period applies pursuant to another section of this Agreement, the City is hereby granted the right and privilege to declare a default in any or all of the terms of this Agreement and pursue any remedies at law or equity against the defaulting Party.
8. **CERTIFICATE OF OCCUPANCY.** No Certificate of Occupancy shall be issued for any building constructed on any lot within the Property until the Developer has complied with all of the terms of this Agreement and the Resolution with respect the Property. If Developer is in default under this Agreement, City may, among other remedies set forth in this Agreement, withhold future Certificates of Occupancy issued for the Property.
9. **NOTIFICATION INFORMATION.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (hereinafter each referred to as a “**Notice**”) shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); or (b) when received or rejected by the addressee if sent by a nationally recognized overnight courier (receipt requested); or (c) when received or rejected by the addressee if sent by United States Postal Service (receipt requested); provided, that notices may be sent by e-mail where expressly permitted by this Agreement. Notices must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a Notice given in accordance with this Section):

If to City:

City of Maple Grove
Attn: City Clerk
12800 Arbor Lakes Parkway
Maple Grove, MN 55369
Email: adietl@maplegroovemn.gov

With copy to:

Hoff Barry, P.A.
Attn: Scott B. Landsman
100 Prairie Center Drive, Ste. 200
Eden Prairie, MN 55344
Email: slandsman@hoffbarry.com

If to Developer:

U.S. Home Corporation dba Lennar
Attn: Joe Jablonski
16305 36th Ave N Ste 600
Plymouth MN 55446
Joe.Jablonski@Lennar.com

10. PROOF OF TITLE/CITY ATTORNEY REQUIREMENTS

The Developer shall provide a platting title commitment as required by Minn. Stat. §505.03. The above-mentioned evidence of title shall be subject to the review and approval of the City Attorney to determine the entities must execute the Final Plat and other documents to be recorded against the Property. Further, Developer shall provide the City with evidence, which sufficiency shall be determined by the City, that all documents required to be recorded pursuant to this Resolution and by the City Attorney are recorded and all conditions for release of the Final Plat have been met prior to the City processing or approving any building permits or other permits applicable to the development of the Property.

- 11. CLUSTER BOX UNIT REQUIREMENTS.** The Developer shall install cluster box units as required by the United States Postal Service (hereinafter the cluster box units and the area near and adjacent to allow its reasonable use referred to as the “CBU”). The Plans shall be modified prior to release of the Final Plat, subject to the review and approval of the City Engineer, to comply with the requirements of the United States Postal Service for the CBU. Prior to release of the Final Plat, the Developer shall submit a maintenance declaration or contain such maintenance responsibility in homeowner association documents, subject to the review and approval of the City Engineer, to apportion to all lots of the Property the responsibility and cost to maintain the CBU.

12. **MISCELLANEOUS.**

- a. Attorney's Fees. If any action is brought to enforce the terms of this Agreement and the City prevails, Developer will pay the City's costs and reasonable attorneys' fees to be fixed by the Court.
- b. Entire Agreement. This Agreement and any other documents incorporated herein by reference constitutes the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties hereto, their respective successors and assigns and the benefits and burdens shall run with the Property. Developer shall record this Agreement against the title to the Property along with the recording of the Final Plat. Developer warrants and guarantees that this Agreement shall have priority on the property records over any other lien or encumbrance. Developer shall provide the City with evidence, which sufficiency shall be determined by the City, that this Agreement is recorded and all conditions herein have been satisfied prior to the City processing or approving any building permits or other permits applicable to the development of the Property.
- c. Governing Law. It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Minnesota. Any legal suit, action, or proceeding arising out of this Agreement shall be instituted in state court located in Hennepin County, Minnesota, and each Party irrevocably submits to the exclusive jurisdiction of such court in any such suit, action, or proceeding. The Parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.
- d. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their respective successors and assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.
- e. Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.
- f. Time is of the Essence. Time is of the essence in the performance of the terms and obligations of this Agreement.

- g. Modification. Any modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement shall be binding only if evidenced in writing signed by each Party or an authorized representative of each Party.
- h. Warrant of Authority. Developer warrants and guarantees that it has the authority to enter into this Agreement and to make it a covenant on the Property binding all current and future owners.
- i. Compliance with City Code §36-64(b)(5). Pursuant to City Code §36-64(b)(5), the Developer shall make application for and receive (on the condition that the Developer complies with the requirements of the City Resolution, this Agreement and City Code) a building permit and construction activities on the Property shall commence, pursuant to the Plans, this Agreement, the City Resolution and City Code on or before June 6, 2024. In such event of failure of the Applicant to meet the above time frame, the Plans, the City Resolution, this Agreement and the approvals there under for the development of the Property shall become null and void with no further action required by either Developer or City.
- j. Data Practices Compliance. Developer may have access to data collected or maintained by the City to the extent necessary to perform Developer's obligations under this Agreement. Developer agrees to maintain all data obtained from the City or otherwise obtained in relation to the matters set forth in this Agreement in the same manner as the City is required under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 or other applicable law (hereinafter referred to as the "Act"). Developer will not release or disclose the contents of data classified as not public to any person except at the written direction of the City. Upon receipt of a request to obtain and/or review data as defined in the Act, Developer will immediately notify the City. The City shall provide written direction to Developer regarding the request within a reasonable time, not to exceed ten (10) days. The City agrees to indemnify, hold harmless and defend Developer for any liability, expense, cost, damages, claim, and action, including attorneys' fees, arising out of or related to Developer's compliance with the City's direction. Subject to the aforementioned, Developer agrees to defend, indemnify and hold harmless the City from any claim, liability, damage or loss asserted against the City as a result of Developer's failure to comply with the requirements of the Act and the direction of the City. Upon termination and/or completion of the development of the Property, Developer agrees to return all data to the City, as requested by the City.
- k. Non-Waiver. The action or inaction of the City shall not constitute a waiver or amendment of the provisions of this Agreement. The waiver by or the

failure of the City to enforce any particular section, portion or requirement of this Agreement at any particular time shall not in any way constitute a waiver of any other section, provision, requirement, time element, or the right to enforce such provision at a subsequent time. To be binding, any amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.

1. Cumulative Rights. Each right, power, or remedy herein conferred upon the City is cumulative and in addition to every other right, power, or remedy, express or implied, now or hereinafter arising, available to the City, at law or in equity, or under any other agreement, and each and every right, power, and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City and will not be a waiver of the right to exercise at any time thereafter any other right, power, or remedy.

The remainder of this page intentionally left blank; signature pages follow

IN WITNESS WHEREOF, the Parties herein have executed this Agreement as of the Effective Date.

CITY OF MAPLE GROVE,
A Minnesota municipal corporation

BY: _____
Mayor

AND: _____
City Clerk

STATE OF MINNESOTA)
COUNTY OF HENNEPIN)ss.
CITY OF MAPLE GROVE)

On this __ day of _____, 2022, before me personally appeared Mark Steffenson and Amy Dietl to me known to be the persons described in the foregoing instrument and who did say they are, respectively, the Mayor and City Clerk of the CITY OF MAPLE GROVE, Minnesota, a municipal corporation, and that the seal affixed to said instrument is the corporate seal of said municipal corporation, and that said instrument was signed and sealed on behalf of said municipal corporation by authority of its City Council, and said Mark Steffenson and Amy Dietl acknowledged said instrument to be the free act and deed of said corporation.

Notary Public

U.S. HOME CORPORATION,
a Delaware corporation

By: _____

Its: _____

STATE OF _____)
) SS.
COUNTY OF _____)

This instrument was acknowledged before me on this __ day of _____, 2022, by _____, the _____ of U.S. HOME CORPORATION, a Delaware corporation, on behalf of said corporation.

Notary Public

EXHIBIT 1

[insert legal description]

WESTON COMMONS 2ND ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota.

EXHIBIT 2

**Weston Commons 1st & 2nd Townhomes
Project Points System
Application / Self Scoring Worksheet**

Points	226.67
Points Possible	290
Percent	78.16%

PPS Category	Points Proposed by applicant	Points Awarded by Staff	Explanation for Points or Reason for Not Being Applicable	Reference:**	Staff Comments
1. Unit Affordability	3.5	0		Price points will start around 350k	
2. Placement of uses to integrate with adjacent uses	20	NA		No restrictions for public access, and site/access coordination with the Church is being explored. (based on PPS guide)	Staff sees no real integration as described in the project point system score guide.
3. Senior Units	N/A	N/A	These HOA maintained townhomes can target seniors, but they are not age restricted.		NA, bonus point category.
4. Collaboration with Adjoining Land Owners	10	5/10		Multiple attempts have been made to coordinate stormwater ponding & access with Northwood Church	There does not seem to be collaboration with adjoining owners.
5. Appropriately Located Neighborhood Commercial/Office	N/A	NA	This is a residential community – it does not provide commercial or office opportunities.		Not applicable

PPS Category		Points Proposed by applicant	Points Awarded by Staff	Explanation for Points or Reason for Not Being Applicable	Reference:	Staff Comments
II	Neighborhood Scale					
A	General					
	Percent of Units Within ¼ Mile of an Identifiable Focal Point					
1.		50	50/50	Playground and fire pit, gazebo.	Landscape Plan & grading plan	Staff agrees.
2.	Distribution of Attached Units	40	NA	All units are attached in small clusters, which is encouraged	8-unit, 6-unit, 4-unit so 50 – 8 = 42	This category is applicable for larger developments that have a mixture of unit types.
3.	Creating Open Space with Multi-Story Buildings	10	NA	Rear courtyards are included in row home configurations. Common open spaces are also included. All buildings are 2 stories in height.	Plans	NA for this sized development.
4.	Percent of Attached Units with Back of Below Grade Access	N/A	0/10	Townhomes are designed to have driveways in front		No points awarded.
5.	Neighborhood Utilizes Rear Lanes for Vehicular Access	N/A	NA	Cannot apply; only applies to SF detached homes		NA
6.	Visual Termini	5	5/5	Monument will be located at southern access point	Landscape plan & grading plans	Autumn Blaze Maple at end of street serves as a visual termini.

PPS Category		Points Proposed by applicant	Points Awarded by Staff	Explanation for Points or Reason for Not Being Applicable	Reference:	Staff Comments	
B	Ho using Diversity						
	1.	Square Foot Range Between Largest and Smallest Units	N/A	NA	All townhomes range from about 1700 to 1800 sf – this is only applicable to large SF homes	NA	
	2.	3+ Styles of Attached Units	10	0/10	4 floorplans are proposed with up to 14 color/elevation packages	Confirmed with internal purchasing & construction team	Only two styles shown.
	3.	6+ Styles of Detached Units	N/A	NA	This development proposal is attached units only		
C	Re adway Image						
	1.	Attached Units are Embedded	N/A	NA	Not applicable due to powerline easement on the north side; 10' is not a collector. (although ponding & screening is provided)	Entire category is only applicable when adjacent to an arterial roadway.	
	2.	Exceptional Landscaping	10	NA	Landscaping includes berming and significant tree lines along the northern and southern boundaries of the community	Landscape Plans	
	3.	Interior Perimeter Roads are not Parallel to Arterial Roads	0	NA	Only applies to detached homes	PPS scoring guide	

4.	Home Fronts Face Artifacts	0	NA	Only applies to detached homes		PPS scoring guide				
5.	Variety in Articulation on Side or Rear Walls	10	NA	Side and rears of units feature articulation as well as architectural features such as gables, dormers, window trim, texture and color changes, decks or patios, and stone accents.		Pictures & elevations				
6.	Variety in Roof Pitch	0	NA	Not a huge variety in roof pitch						
7.	Variety in Roof Orientation	5	NA	Roofs feature varying heights and gables with dormers						
8.	Variety in Building Height	5	NA	Roofs have varying heights						
9.	Variety in Building Orientation	5	NA	Buildings are oriented in a north to south or east to west fashion.						

PPS Category		Points Proposed by applicant	Points Awarded by Staff	Explanation for Points or Reason for Not Being Applicable	Reference:	Staff Comments
D	Pedestrian Quality					
1.	Percent of Units within 1000' of Park	N/A	10/10	Playground and open space area		Staff agrees
2.	Grid or Modified Grid	10	10/10	Site is narrow so layout is a grid form		Staff agrees
3.	Internal Trail Connections	N/A	NA	Does not seem to be an opportunity for internal trail connections because they would not really connect to anything.		Narrowness of site makes this NA
4.	Pedestrian Scale/Ornamental Street Lighting	5	5/5	Decorative lights proposed like Territorial woods		Agree
5.	Sidewalks are Provided Both Sides of Street	5	5/5	Sidewalk is provided on both sides of the central public street.		Agree
6.	Cul-de-Sacs are Open Ended	N/A	NA	No CDS proposed		

E	PPS Category		Points Proposed by applicant	Points Awarded by Staff	Explanation for Points or Reason for Not Being Applicable	Reference:	Staff Comments
	Integration of Parks...etc						
1.	Park Dedication is in Strict Conformance with Comprehensive Park Plan	N/A	NA	Park fees will be paid in lieu of land		Agree	
2.	Open Space is Consolidated and Usable	10	NA	Courtyards are being created on west side & additional open spaces are on the east side with the back to back townhomes		Scale of development makes this NA	
3.	Open Spaces are Connected with Green Corridors	N/A	NA	No green corridor opportunities		Scale of development makes this NA	
4.	Tree Preservation Above Minimum	N/A	NA	There are virtually no trees to preserve			
5.	Natural Features are Retained	N/A	NA	No significant natural features to be retained			
6.	Wetlands are Retained not Mitigated	0	9.1/10	Wetlands are isolated and fallow farm ditches; they are proposed to be filled		91% of wetlands are retained so 9.1 points are awarded.	
7.	Public Access to Creeks, Streams, and Lakes	10	NA	A central road provides public access through the neighborhood and to		No creeks, streams or lakes.	

					surrounding areas to the north and south		
8.	Cultural Resources Integrated into Open Space Areas	N/A	NA	None exist			
9.	Extensive Internal Landscaping	10	8.4/10	Extensive landscaping proposed			The applicant is providing 84% more overstory trees than required by code. Staff notes the applicant is also providing a significant amount of ornamental trees.
10.	Use of Native Plants in Landscaping	5	5/5	Typical practice			Agree
11.	Existing Structures are Retained or Reused	N/A	NA				
12.	Viable Open Space Master Plan is Created	N/A	NA				Scale of development makes this N/A
13.	Any Natural Restoration Work	N/A	NA				
14.	Extraordinary Environmental Protection	N/A	NA				

	15	Area of Parkland, Woodland, or Other Open Space Above the Minimum	N/A	NA		
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III.	PPS Category		Points Proposed by applicant	Points Awarded by Staff	Explanation for Points or Reason for Not Being Applicable	Reference:	Staff Comments
	Unit	Scale Criteria					
	A. General						
	1.	Guarantee that Models will not be Repeated with X Lots of Each Other	N/A	NA	This is geared toward detached housing		Agreed
	2.	Creation of a Pattern Book	N/A	BONUS			
	B. Architectural Elements (Items shall be guaranteed by covenant or some other appropriate, enforceable agreement)						
	1.	Front Porches	15	0	Porches are located on sides and rears		Porches must be on the front to count.
	2.	Garages Set Back Farther than Front Face or are Side Loaded	N/A	14.2/20			36 of the 154 units have setback garages.
	3.	Brick, Stone, or Stucco Chimneys	10	0			
	4.	Other Architectural Features		100			Staff counted 11 point worthy features total but only 10 per style.
		(insert list of Architectural Features here)					
	C. Safety						
	1.	% of units sprinkled above requirements		BONUS			