

Plymouth City Commission

Regular Meeting Agenda

Tuesday, September 8, 2020 7:00 p.m. ONLINE

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

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

Meeting will be held online at Zoom.us – Meeting ID 890 7188 0409

Join Zoom Meeting - <https://us02web.zoom.us/j/89071880409> Passcode - 640639

Statement on explanation of the reason why the public body is meeting electronically:

On March 10, 2020 the Governor of the State of Michigan declared a State of emergency across the State of Michigan under section 1 of Article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 – 421, and the Emergency Powers of the Governor Act of 1945, 1945 PA302, as amended, MCL 10.31 – 33. These sections provide the Governor with broad powers and duties to cope with dangers to this state or to the people of the state.

As a part of the response to the emergency, the Governor has deemed it reasonable and necessary to temporarily suspend rules and procedures relating to physical presence at meetings and hearings of public bodies and other governmental entities in Michigan. These public bodies and entities must continue to conduct public business during this emergency. Due to the emergency situation and the request of the Governor to not gather in groups of 10 or more it is necessary for some public boards to meet electronically.

- 1. CALL TO ORDER**
 - a. Pledge of Allegiance
 - b. Roll Call
- 2. CITIZENS COMMENTS**
- 3. APPROVAL OF THE AGENDA**
- 4. ENACTMENT OF THE CONSENT AGENDA**
 - a. Approval of August 17, 2020 City Commission Regular Meeting Minutes
 - b. Approval of July 2020 Bills
- 5. COMMISSION COMMENTS**
- 6. PUBLIC HEARING**
 - a. Barrio Add Space & Adjust Stockholders
 - b. Penn Grill Outdoor Service Area & Change in Stockholders
- 7. OLD BUSINESS**
- 8. NEW BUSINESS**
 - a. Rooftop Seating Ordinance Amendment – First Reading
 - b. Authorization to Hire – DMS
 - c. Noise Ordinance – First Reading
 - d. PASER Road Rating Report Authorization
- 9. REPORTS AND CORRESPONDENCE**
 - a. Liaison Reports
 - b. Appointments
- 10. ADJOURNMENT**

Citizen Comments - This section of the agenda allows up to 3 minutes to present information or raise issues for items not on the agenda. Upon arising to address the Commission, speakers should first identify themselves by clearly stating their name and address. Comments must be limited to the subject of the item.

Persons with disabilities needing assistance with this should contact the City Clerk's office at 734-453-1234 Monday through Friday from 8:00 a.m.-4:30 p.m., at least 24 hours prior to the meeting. An attempt will be made to make reasonable accommodations.

Consent Agenda- The items on the Consent Agenda will be approved by one motion as Agenda Item #4. There will be no separate discussion of these items unless a Commissioner or citizen so requests, in which case that item will then be placed on the regular agenda.

City of Plymouth Strategic Plan 2017-2020

GOAL I - QUALITY OF LIFE

OBJECTIVES

1. Support the neighborhoods with high-quality customer service
2. Engage in collaboration with private entities and surrounding municipalities to implement the [Joint Recreation Master Plan](#)
3. Improve communication with the public across multiple platforms
4. Maintain a high level of cleanliness throughout the City
5. Support and host a diverse variety of events that foster community and placemaking

ONE YEAR TASKS 2020-21

- Liquor/marijuana license review
- Rooftop seating review
- Adopt Downtown Development Authority (DDA) Master Plan and identify funding sources for implementation
- Begin implementation of Kellogg Park Master Plan with fountain replacement
- Establish format & requirements for public parks sponsorship
- Resident education programs on zoning basics, ordinance change and update, services, and recycling
- City webpage - create city-wide F.A.Q. "Index" page and push out link
- Increase social media presence – 1k new followers/subscribers/etc.
- Review and evaluate City truck routes
- Complete update to Special Events Policy

GOAL II - FINANCIAL STABILITY

OBJECTIVES

1. Approve balanced budgets that maintain fiscal responsibility
2. Advocate for increased revenue sharing with the State of Michigan
3. Encourage and engage in partnerships, both public and private, to share costs of services and equipment
4. Address the issue of legacy costs
5. Seek out and implement efficient and effective inter-departmental collaboration
6. Market our successes to attract new economic and investment opportunities

ONE YEAR TASKS 2020-21

- Actively promote and participate in the 2020 census
- Explore internal and external supplemental funding of legacy costs
- Target revenue enhancements for large-scale capital projects, including grants and millage
- Assist the Michigan Municipal League (MML) in facilitating and increasing support for state revenue sharing initiatives
- Redesign Capital Improvement Plan and evaluate future funding process for Equipment Fund
- Create a rate card for payment in lieu of paid parking
- Develop financial plan for public safety model
- Identify cost estimates, timeframe and potential funding sources for central parking deck
- Complete road bond sale – phase one

GOAL III - ECONOMIC VITALITY

OBJECTIVES

1. Continue to support and improve active, vibrant downtown branding
2. Support community and economic development projects and initiatives
3. Support a mix of industrial, commercial and residential development
4. Reference the [Master Plan](#) in economic decision-making

ONE YEAR TASKS 2020-21

- Continued administration of development projects and proposals including Wilcox Mill, Saxton's, Pulte, Starkweather School, Lumber Mart, and various residential builds
- Branding – consistency across all communications (email, letterhead, agenda)
- Provide annual process and risk-management training to all boards and commissions
- Continue implementing Redevelopment Ready Community (RRC) plan to achieve certification
- Develop list of transitional properties and utilize Michigan Economic Development Corporation (MEDC), Wayne County, others to market
- Explore marketing partnerships (schools, Chamber, hotels, available publications etc.)

GOAL IV - SERVICE AND INFRASTRUCTURE

OBJECTIVES

1. Support administration and staff by providing professional development opportunities, supplying resources, and maintaining a commitment to recruitment, retention and succession planning
2. Support and deliver safe and responsive emergency services
3. Maintain a sophisticated and responsive technology to communicate and manage data
4. Continually record, maintain, update, and improve City infrastructure

ONE YEAR TASKS 2020-21

- Administration to make parking recommendation to City Commission by end of first quarter
- Implement updates to parking system according to direction given by City Commission
- Actively engage employees for further career development for succession planning with special focus on the depth of Cultural Center staffing
- Continue Asset Management Plan
- Review Insurance Services Office (ISO) Report and International City/County Management Association (ICMA) Study & begin meeting to discuss viable options for the future delivery of emergency services
- Approve third version of agreement on sanitary sewer with Western Township Utilities Authority (WTUA) based on delay by Wayne County
- Develop multi-modal transportation policy to City Commission
- Implement 2020 street repairs
- Restore Commercial Motor Vehicle (CMV) enforcement
- Continue geographic information system (GIS) mapping of the City
- Define process/educate citizenry/pursue adoption/Implement form-based codes



City of Plymouth
City Commission Regular Meeting Minutes
Monday, August 17, 2020 - 7:00 p.m.

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

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

Meeting was held at Kiwanis Park (Auburn and Junction)

1) CALL TO ORDER

- a. Mayor Wolcott called the meeting to order at 7:00 p.m., followed by the Pledge of Allegiance.
- b. Roll call
Present: Mayor Oliver Wolcott, Mayor Pro Tem Nick Moroz, Commissioners Suzi Deal, Ed Krol, Kelly O'Donnell, Marques Thomey, Tony Sebastian

Also present: City Manager Paul Sincok, City Clerk Maureen Brodie, Attorney Robert Marzano, Public Safety Director Al Cox and various members of the City administration

2) CITIZENS COMMENTS

Lee Jasinski, 1380 Maple, said the City lost some heritage trees due to construction.
Barbara LaRose, 502 Adams, spoke about advertising voting information to younger people and where ballot drop boxes are located.

3) APPROVAL OF THE AGENDA

Thomey offered a motion, seconded by Krol, to approve the agenda for Monday, August 17, 2020.

MOTION PASSED 7-0

4) ENACTMENT OF THE CONSENT AGENDA

- a. Approval of August 3, 2020 City Commission Regular Meeting Minutes
- b. Approval of July 2020 Bills

Moroz offered a motion, seconded by Sebastian to approve the consent agenda.

MOTION PASSED 7-0

5) COMMISSION COMMENTS

Krol mentioned a business that is closing. DDA Director Tony Bruscatto indicated that business was closing due to retirement, and another one that is moving into that space. Krol asked staff to look into tree losses due to construction.

Deal asked about the status of the road construction project on Farmer and the virtual concerts. Moroz also asked about trees and whether there had been any dramatic change after enactment of the new tree ordinance.

Thomey spoke about the possibility of creating a social district.

6) OLD BUSINESS

None

7) NEW BUSINESS

- a. Water & Sewer - Rate Card #23

The following resolution was offered by Moroz and seconded by Thomey.

RESOLUTION # 2020-65

WHEREAS The City of Plymouth operates a water and sewer system to protect the public health, safety, and welfare; and

WHEREAS The Rouge Valley Sewage Disposal System has imposed rate adjustments for wholesale sewer service charges to the City of Plymouth effective October 1, 2020; and

WHEREAS Other operating and capital costs for both water and sewer operating systems have changed from the prior fiscal year;

NOW, THEREFORE, BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby adopt Water and Sewer Rate Card # 23 (attached to this resolution) to be effective for all services beginning on October 1, 2020 establishing a water rate \$ 5.35 per 1,000 gallons consumed and a sewer rate of \$ 7.37 per 1,000 of water consumed for fiscal year 2020-21.

BE IT FURTHER RESOLVED THAT the City Clerk is hereby directed to publish the Water and Sewer Rate Card # 23 to inform the residents of the newly established rate structure.

Effective October 1, 2020

City of Plymouth Water and Sewer Rate Card # 23					
<i>Per 1000 Gallons</i>		Water Rate	Sewer Rate	Minimum Billing: 4,000 Gallons	
		\$5.35	\$7.37		
Ready to Serve Charges Quarterly Fees		Water Tap Fees Plus Time and Material for City Inspections, Supervisors and Crew		Sanitary Sewer Tap Fees/ Storm Sewer Tap Fees Plus Time and Material for City Inspections, Supervisors and Crew	
Meter Size	Charge	Tap Size	Charge	Tap Size	Charge
8/2"	\$11.56	Up to and including 1" Tap	\$3,830.00	Up to and including 6" Tap	\$10,000.00
3/4"	\$13.00	1.5" Tap	\$3,780.00	8" Tap	\$28,000.00
1"	\$19.26	2" Tap	\$8,818.00	10" Tap	\$40,000.00
1.5"	\$39.68	3" Tap	\$11,410.00	12" Tap	\$88,000.00
2"	\$62.92	4" Tap	\$19,274.00	14" Tap	\$70,000.00
3"	\$117.96	6" Tap	\$36,782.00		
4"	\$188.22	8" Tap	\$60,000.00		
6"	\$389.20	<i>For Sizes Not Listed Multiply Tap Diameter By \$8128.00</i>			

- > **Commercial Sewer Surcharge-Fees are Billed as Mandated on a One-for-One Basis**
- > **Non-Residential Customers are Billed Monthly**
- > **There Will Be a Maximum of 20 Days From Water Billing Date to Due Date**
- > **New Water Service Meter Fee = Installation Time and Material plus 15%**
- > **There is a \$90.00 Fee for "After Hours" Water Turn on/off**

ADDITIONAL SEWER FEES

Property owner is responsible for all sewer leads, pipes, and taps up to and including the connection to the City's mains. Property owner is responsible for the repair and/or replacement of any publicly owned property including, but not limited to grass, sod, top soil, trees, curb, gutter, street pavement and base material.

CONSTRUCTION PURPOSES

For building or construction purposes, the daily charges shall be made for the use of water from the time of installation of the service pipe until meter installation:

Service Pipe Size	Charge
3/4"	\$80.00
1"	\$80.00
1.5"	\$88.00
2"	\$118.00
3"	\$168.00
4"	\$188.00
6"	\$389.00
8"	\$760.00

All connections to the water supply system or the sewer disposal system shall be made by and at the expense of the property owner or user so connecting, subject to any rules or regulations therefore now or hereafter established by the city, and subject to inspection and approval prior to use. A permit for such connection shall be obtained in advance from the city, and the property owner or user making such connection shall pay all inspection charges now or hereafter established by the city prior to the use thereof.

TAPS RESTRICTED

The term "tap" as used herein shall include any opening or outlet heretofore or hereafter made in the water system, for the purpose of withdrawing water therefrom for any use, public or private, either commercial or domestic, excepting fire hydrants. No taps shall be made to the system unless authorized by the proper city authorities.

>> Non-Payment Penalty - 15% Added To Total Bill For All Bills Paid After The Due Date <<

b. Industrial Pretreatment Program - Sewage

The following resolution was offered by Krol and seconded by Moroz.

RESOLUTION # 2020-66

WHEREAS The Great Lakes Water Authority ("GLWA") is a Michigan municipal authority and public body corporate organized and existing pursuant to the provisions of Michigan Public Act No.233 of 1955, as amended, MCL 124.281, et seq. ("Act 233"), for the purpose of establishing a regional sewage disposal system to operate, control, and improve the sewage disposal system leased from the City of Detroit; and

WHEREAS Pursuant to Act 233, the _City of Plymouth__ is a constituent municipality of the GLWA; and

WHEREAS As authorized by Act 233, GLWA and the constituent municipalities are required by state and federal law to adopt binding rules and regulations (Exhibit A, attached hereto and incorporated herein by reference) as part of an Industrial Pretreatment Program (IPP) in order to comply with all applicable state and federal laws, including, without limitation, the requirements of the Federal Water Pollution Control Act, 33 USC Section 1251, et. seq., the General Pretreatment Regulations for Existing and New Sources of Pollution, 40 CFR 403, and the National Categorical Pretreatment Standards contained in 40 CFR Sections 405-471; and

WHEREAS These rules and regulations were adopted by GLWA as a uniform code to: (1) regulate wastes and wastewaters discharged into the collection system for all participating municipalities; (2) prevent the introduction of pollutants into the wastewater systems which will interfere with the operation of the system, contaminate the resulting sludge, or pose a hazard to the health, safety or welfare of the people, the communities or to employees of GLWA; (3) prevent the introduction of pollutants into the wastewater system which will pass inadequately treated through the system and into the receiving waters, the atmosphere, and the environment, or will otherwise be incompatible with the system; (4) provide for the recovery of costs from users of the wastewater collection system sufficient to administer regulatory activities and meet the costs of operation, maintenance, improvement and replacement of the system; and

WHEREAS After a 45-day public comment period and public hearing, the Board of the GLWA approved the IPP Rules on November 13, 2019.

NOW THEREFORE BE IT RESOLVED that the governing body of the City of Plymouth, in compliance with Act 233 and state and federal law, hereby concur in the IPP rules and regulations attached hereto as Exhibit A; including any subsequent amendments thereto, which amendments, if any, shall not require the approval of this governing body; and

BE IT FURTHER RESOLVED that the adoption and approval of the rules and regulations contained in Exhibit A shall be contractually binding on the parties, and no governing body of City of Plymouth shall be authorized or empowered to rescind or change the approval granted in this resolution without 180 days prior written notice to the GLWA.

MOTION PASSED 7-0

8) REPORTS AND CORRESPONDENCE

a. Liaison Reports

Krol reported that the ZBA granted a request for a variance of windows facing the interior lot line in a side yard setback at 271 S. Main.

O'Donnell reported that the Planning Commission's rooftop ordinance would be on the next City Commission agenda, and that the PUD on their August agenda was moved to September.

9) ADJOURNMENT

Hearing no further discussion, Wolcott asked for a motion to adjourn at 7:28 p.m. A motion to adjourn was made by Moroz and seconded by Krol.

MOTION PASSED 7-0

OLIVER WOLCOTT
MAYOR

MAUREEN A. BRODIE, CMC, MIPMC
CITY CLERK



Administrative Recommendation

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

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

To: Mayor & City Commission
From: Paul J. Sincock, City Manager
CC: S:\Manager\Sincock Files\Memorandum - Add Space expansion of Barrio & Stockholders - 09 -08-20.docx
Date: August 20, 2020
RE: Liquor License **Public Hearing** – Barrio Add Space & Adjust Stockholders

Background

To comply with the City's Liquor Management Ordinance, the ownership of the Barrio needs to update their operations plan and their filings with the City to add additional space to their operation and to shift stock between the current ownership. This new area would be located in the area that was previously occupied by a retail establishment prior to the covid situation. They have previously obtained the various building permits and approvals from the Planning Commission to proceed with the additional space. The stockholders are merely transferring percentages of stock between themselves.

The space has already been approved by the Michigan Liquor Control Commission and the ownership is bringing this matter forward in order to come into compliance with our Liquor Management Ordinance.

The City Commission needs to hold a Public Hearing on this matter and hear any public input on this issue. Further, the Local Liquor License Review Committee heard this matter prior to the City Commission meeting.

RECOMMENDATION:

Assuming that LLRC has recommended approval, we have attached a proposed Resolution for the City Commission to consider regarding this matter.

Should you have any questions in advance of the meeting please feel free to contact Al Cox or myself.

CITY OF PLYMOUTH
LIQUOR LICENSE REVIEW COMMITTEE
APPLICATION

Name of Applicant: BARRIO
ATTN: DEAN ROVINELLI

Address of Applicant: 555 FOREST AVE
PLYMOUTH, ME 48170

Phone Number of Applicant: 734-776-3325

Fax Number of Applicant:

Email Address of Applicant: info@barrioplymouth.com

Please List Name, Address and type of license as it appears on current Liquor License:

THE LOCALE, LLC DBA BARRIO COCINA Y TEQUILERIA

555 FOREST AVE, PLYMOUTH, ME 48170

CLASS C AND SDM WITH SUNDAY SALES PERMIT (PM), OUTDOOR SERVICE AREA

List All Persons Listed on Liquor License (Partners):

DEAN ROVINELLI

JOHN CORSI

Please list type of license that you are requesting (new, permit, transfer of ownership, transfer into the City, etc.):

ADDING SPACE TO LICENSE

Please list Name, Address and type of license as it is proposed (If change approved):

SAME AS ABOVE: CLASS C AND SDM WITH SUNDAY SALES AND OUTDOOR SERVICE.

Please list all persons listed on proposed Liquor License (Partners):

DEAN ROVINELLI

JOHN CORSI

Fee Schedule:


Liquor License Investigations	
Class C or Private Club License:	
New license or transfer of ownership	\$600.00
Amend stockholders	\$300.00
Relocation of existing license (per person named on request)	\$300.00
Dance or entertainment permit	\$200.00
SDD/SDM:	
New license or transfer of ownership	\$400.00
Relocation of existing license (per person named on request)	\$300.00
Add or drop space on license	\$100.00
Special license and one-day permits	\$100.00

Please submit plan of operation (if required, see Section #4 of Ordinance):

CITY OF PLYMOUTH
 201 S MAIN
 PLYMOUTH, MI 48170
 Phone : 734-453-1234
 WWW.CI.PLYMOUTH.MI.US

Received From: _____
 Date: 08/14/2020
 Receipt: 371957
 Cashier: JOHN
 Time: 11:49:08 AM

ITEM REFERENCE	AMOUNT
LICEN LICENSES LIQUOR	\$100.00
TOTAL	\$100.00
CHECK 2001	\$100.00
Total Tendered:	\$100.00
Change:	\$0.00

Signature of Applicant:  Date: 8/13/20

LAW OFFICES OF
DIXON & MacDONALD, P.C.
24901 NORTHWESTERN HIGHWAY, SUITE 200
SOUTHFIELD, MICHIGAN 48075

CLARENCE O. DIXON
SCOTT D. MacDONALD

TELEPHONE (248) 865-8866
FACSIMILE (248) 865-8822

WRITER E-MAIL:
scottmac@dixon-macdonald.com

July 9, 2020

Plymouth Liquor License Review Committee
Attn: Chief of Police, Al Cox
Via electronic mail to acox@plymouthpolice.org

RE: APPLICATION TO TRANSFER UNITS BETWEEN EXISTING MEMBERS

Licensee: The Locale, LLC d/b/a Barrio Cocina Y Tequileria
Licensed Premises: 555 Forest Ave., Plymouth, MI 48170-1721
Current Members: Dean Rovinelli (50%), John Corsi (50%)
Proposed Members: Dean Rovinelli (40%), John Corsi (60%)

Dear Chief Cox:

My office represents The Locale, LLC d/b/a Barrio Cocina Y Tequileria ("Licensee"). The Licensee is currently owned by Dean Rovinelli (50%) and John Corsi (50%). Following approval, Mr. Rovinelli will hold 40% and Mr. Corsi will hold 60%. No new members are proposed. Copies of the following documents are enclosed for review by the Liquor License Review Committee:

1. City of Plymouth Liquor License Review Committee Application; and
2. Membership Interest Purchase Agreement.

It is my understanding that the Licensee will deliver its check for the \$300 application fee directly to the City Clerk.

Thank you for your kind attention to this letter and its enclosures. We look forward to any questions or comments that you or the other members of the LLRC may have.

Very truly yours,

DIXON & MacDONALD, P.C.



Scott D. MacDonald

SDM

Enclosures as noted above

cc: Dean Rovinelli (via electronic mail, with enclosures)
John Corsi (via electronic mail, with enclosures)

Fee Schedule:

Liquor License Investigations	
Class C or Private Club License:	
New license or transfer of ownership	\$600.00
Amend stockholders	\$300.00
Relocation of existing license (per person named on request)	\$300.00
Dance or entertainment permit	\$200.00
SDD/SDM:	
New license or transfer of ownership	\$400.00
Relocation of existing license (per person named on request)	\$300.00
Add or drop space on license	\$100.00
Special license and one-day permits	\$100.00

Please submit plan of operation (if required, see Section #4 of Ordinance):

CITY OF PLYMOUTH
 201 S MAIN
 PLYMOUTH, MI 48170
 Phone : 734-453-1234
 WWW.CI.PLYMOUTH.MI.US

Received From:
 Date: 07/10/2020
 Receipt: 368379
 Cashier: AEG
 Time: 9:26:46 AM

ITEM REFERENCE	AMOUNT
PDREV POLICE DEPARTMENT REVENUE	\$300.00
BARIO	\$300.00
TOTAL	\$300.00
CHECK 1982	\$300.00
Total Tendered:	\$300.00
Change:	\$0.00

DocuSigned by:
 Signature of Applicant: Dean Rovinelli Date: 7/3/2020
BFCF3355DF53476...
 Dean Rovinelli, Authorized Member

MEMBERSHIP INTEREST PURCHASE AGREEMENT

THIS MEMBERSHIP INTEREST PURCHASE AGREEMENT (the "Agreement") is entered into by and between DEAN ROVINELLI (the "Seller"), and JOHN CORSI (the "Purchaser"), jointly, the "parties", with reference to the following facts and circumstances, all of which are true and incorporated into the agreement of the parties, and shall be retroactively effective as of January 1, 2020 ("Effective Date"):

A. Seller and Purchaser are both members in THE LOCALE, LLC D/B/A BARRIO COCINA Y TEQUILERIA, a Michigan limited liability company (the "Company");

B. The business and affairs of the Company are governed by an Amended and Restated Operating Agreement executed on the Effective Date hereof (the "Operating Agreement");

C. Prior to consummation of the transactions contemplated herein, Seller and Purchaser each owned fifty percent (50%) of the Company's outstanding membership interest;

D. Seller desires to sell and Purchaser desires to purchase ten percent (10%) of Seller's Membership Interest in accordance with the terms of this Agreement; and

E. Following consummation of the transactions contemplated herein, Seller shall own forty percent (40%) and Purchaser shall own sixty percent (60%) of the Company's outstanding membership interest.

NOW, THEREFORE, in consideration of the collective promises, representations, warranties and covenants contained in this Agreement, the parties agree as follows:

1. Subject to the terms and conditions of this Agreement, Purchaser agrees to purchase from Seller, and Seller agrees to sell to Purchaser, ten percent (10%) of Seller's Membership Interest in the Company. In consideration thereof, Purchaser has paid Seller One Dollar (\$1.00) (the "Purchase Price"), receipt of which is hereby acknowledged, and Seller has executed and delivered to Purchaser the Assignment of Membership Interest attached as Exhibit 'A'.

2. Notwithstanding anything to the contrary set forth in this Agreement, the transactions contemplated herein remain subject to approval of the Michigan Liquor Control Commission and shall be void *ab initio* in the event of denial.

3. Each party acknowledges that this Amendment was drafted with the assistance of Attorney Scott D. MacDonald, of Dixon & MacDonald, P.C., as scrivener only and at the joint request of both parties, and agree that each such party, for such party and his successors and assigns, waives any and all claims against the aforementioned attorney and/or law firm arising from or alleging a conflict of interest in arising from or related to the preparation of this Agreement. Each party has either consulted with independent legal counsel concerning the terms

and conditions of this Amendment or knowingly and freely elected to not seek legal counsel in entering into this binding legal agreement.

4. Each party represents that, in entering into this Agreement, (a) such party has read and understands this Agreement, and has relied and is relying solely upon his own judgment, belief, and knowledge of the nature, extent, effect, and consequences relating thereto, and upon the advice of his own, independent legal counsel; (b) this Agreement is being made without reliance upon any statement or representation not contained or referenced in this Agreement of any other party, or any representative, agent, or attorney of any other party; (c) no promise, inducement, or agreement not expressed in this Agreement has been made to any of the parties; and (d) the terms and conditions contained herein are contractual and not mere recitals.

5. This Agreement (a) may only be amended in writing signed by both parties; (b) shall not be assignable by either party without written consent of the other party; (c) shall be binding upon the parties and their respective heirs, administrators, executors, personal representatives, successors and assigns; (e) constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all prior oral or written representations and agreements, including contemporaneous agreements; and (f) shall be governed by and construed in accordance with the laws of the State of Michigan. All legal presumptions shall be construed equally in favor of each party. If any term or provision of this Agreement is invalid or unenforceable under any statute, regulation, executive order or other rule of law, such term or provision shall be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining terms and provisions of this Agreement shall remain in full force and effect. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver of either party of a breach of any provision of this Agreement constitute a waiver of any succeeding breach of the same or any other provision. This Amendment may be executed in several counterparts, each of which will be deemed an original, but all of which will constitute one and the same. Delivery via facsimile or PDF transmission of a counterpart of this Agreement as executed by the parties making such delivery shall constitute good and valid execution and delivery of this Agreement for all purposes.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement as of the Effective Date first above written.

SELLER:

DocuSigned by:
Dean Rovinelli Dated: 7/3/2020
BFCF3355DF53476...
DEAN ROVINELLI

PURCHASER:

DocuSigned by:
John Corsi Dated: 7/3/2020
1571560B9D39433...
JOHN CORSI

EXHIBIT 'A'

ASSIGNMENT OF MEMBERSHIP INTEREST

ASSIGNMENT OF MEMBERSHIP INTEREST

DEAN ROVINELLI ("Assignor") does hereby completely and fully set over, assign and warrant to JOHN CORSI ("Assignee") ten percent (10%) of Assignor's membership interest in THE LOCALE, LLC D/B/A BARRIO COCINA Y TEQUILERIA, a Michigan limited liability company, including all rights and obligations of full membership attendant thereto, pursuant to the terms and provisions of a certain Membership Interest Purchase Agreement executed on even date herewith with a retroactive effective date of January 1, 2020.

ASSIGNOR:

DocuSigned by:
Dean Rovinelli
BFCF3355DF53476...
Dated: 7/3/2020
DEAN ROVINELLI

ACCEPTANCE

Assignee hereby accepts assignment of the membership interest described above, including all rights and obligations of full membership attendant thereto.

ASSIGNEE:

DocuSigned by:
John Corsi
157158089D39433...
Dated: 7/3/2020
JOHN CORSI

**CITY OF PLYMOUTH
PLAN OF OPERATION**

Licensee: The Locale, LLC
Premises: 555 Forest Avenue
Plymouth, Michigan 48170

LIQUOR LICENSE TYPE: Class C and SDM, with Sunday Sales Permit (PM), and Outdoor Service area Permit

PREAMBLE: I/we have copies of the City of Plymouth's Liquor Management Ordinance, understand its provisions and will be governed by them. The following Plan of Operation is developed in keeping with the spirit and intent of this Ordinance.

I. HOURS OF OPERATION: The planned hours of operation are:

- Monday-Thursday: 11:00am to 10:00pm
- Friday and Saturday: 11:00am to 11:00pm
- Sunday: 12:00pm-9:00pm

II. FORMAT: The Locale, LLC does business as Barrio Cocina + Tequileria and operates as a comfortable, full service neighborhood restaurant where the primary business activity is the sale and service of food, and where the sale of alcoholic beverages is only incidental to the food service. Barrio Cocina + Tequileria does not operate in a manner where the sale of alcoholic beverages is the primary activity. During all hours of operation the business will be open to the public and the kitchen shall remain open and offer food preparation and service to its patrons. Barrio Cocina + Tequileria is owned and operated by John Corsi and Dean Rovinelli and specializes in creative renditions of favorite authentic Mexican foods. The premise previously offered full service for roughly 94 patrons (included main floor seating for 50, upstairs seating for 20, and exterior seating for 24) while employing 15-20 persons per day. The renovated premise will continue to operate as a full service restaurant offering fresh, high quality, artisanal food options for roughly 136 patrons (includes main floor seating for 66, upstairs seating for 38, and exterior seating for 32) while employing 15-20 persons per day.

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It is agreed that we will not change the format or type of business without written approval of the City Commission. This includes changing from a full service restaurant to a bar where food service is reduced, etc. The ratio of food sales to alcohol sales will continue to be approximately 65% food 35% n/a beverages, wine, beer, and cocktails. The previous total square footage of guest space was 2,000 square feet (does not include incidental areas used for service and storage, housing of mechanical equipment, heating systems and similar uses). The new guest space will consist of 3,000 feet. Total square footage for the building is roughly 5,000 square feet.

III. CODE COMPLIANCE: Barrio Cocina + Tequileria will fully comply with all applicable health, safety, building, sanitation, electrical, plumbing, and fire codes as well as zoning requirements.

IV. PLAN OF OPERATION: It is acknowledged that under Liquor Management Ordinance, the business shall be operated in accordance with this approved Plan of Operation. Changing the

**CITY OF PLYMOUTH
PLAN OF OPERATION**

operation of the business in any manner inconsistent with the approved Plan of Operation is a violation of the ordinance and the rules of the Liquor Control Commission. Any change to the Plan of Operation must be approved by the City Council prior to it being placed into effect on the business premises.

V. SECURITY: Security for the customer, building, and community is the first priority for the corporation, and as such, we will undertake whatever measures are necessary to maintain and supervise the expected level.

VI. PARKING: Parking shall be provided as follows: (Number of Spaces)

- 29 spaces plus 2 handicap spaces on site
- 685 Public Spaces plus 28 handicap spaces total in downtown Plymouth, 76 Public Spaces plus 2 handicap spaces in the immediate vicinity on Forest Avenue alone

VII. ALCOHOL MANAGEMENT: The establishment will strictly obey all rules and regulations promulgated by the City of Plymouth and the State of Michigan Liquor Control Commission. There will be neither service to nor consumption of alcoholic beverages by minors at any time. No alcohol will be sold, or permitted to be sold, on a commission bases by any person.

The following polices will be enforced at the establishment:

1. No alcoholic beverages will be allowed on the premises, other than what is dispensed by the establishment.
2. All Staff will pay attention and be alert to observable clues displayed by an intoxicated individual such as: impaired reflexes, impaired coordination, reduced judgment and inhibitions, impaired vision, etc.
3. All Staff will be alert to potential problems at their respective areas at the facility.
4. Be polite and courteous to the intoxicated individuals(s). Be knowledgeable as to when to request assistance from additional facility staff.
5. Patrons who appear to be 40 years of age or younger will be asked to show proper Michigan identification. Signage will be posted at serving locations. Patrons must produce proper identification.
 - 5.1 All patrons under 21 years of age, service will be refused.
 - 5.2 Check "State Seal" and other markings. Check for damage or alterations to identification card.
 - 5.3 Do not return falsified identification cards. Call management immediately.

**CITY OF PLYMOUTH
PLAN OF OPERATION**

6. If a patron shows signs of intoxication, then refuse service, politely explain policy, suggest non-alcohol purchase, and/or call for management if necessary.
7. If a patron is purchasing on behalf of someone else who appears **less than 30 years old or younger**, then request to see identification of recipient or contact supervisory personnel whom will seek patron(s) out. Refuse service to minors. Inform all parties involved that policy allows for ejection off of premises if illegal activity has occurred.
8. Alcohol dispensing may be restricted to one of the following practices or any combination thereof:
 - No sales to intoxicated persons
 - No sales without proper identification
 - Limited alcoholic choices if necessary
 - When in doubt, do not serve, call the supervisor
9. Observe all patrons leaving the property. No alcoholic beverages are allowed to leave the facility or property.
10. Approach any patron appearing to be impaired and leaving the event. Determine if they are driving. If so, attempt to persuade them not to drive and request a non-impaired companion to drive. If unable, refer patron(s) to bus or taxi service.
11. Supervisory and management personnel will complete documentation of any alcoholic related incidents at end of event. Information will be disseminated accordingly.
12. We shall provide free and/or at reduced prices, non-alcoholic beverages to all designated drivers.
13. The establishment fully participates in the Techniques in Alcohol Management Program and will continue such participation in that program or a similarly recognized program approved by the City of Plymouth Chief of Police.

VIII. REFUSE DISPOSAL: The establishment will dispose of refuse in enclosed dumpster/s, with locked lids. Pickup will be a minimum of one (1) time per week.

IX. GENERAL: Every effort will be made to maintain positive relationships with adjacent and nearby businesses and residences as well as cooperation with all City Departments. Every effort will be made to solve any problems that may arise.

X. RESTAURANT HISTORY: John Corsi is the successful restaurant owner of Pizza and Vino in downtown Plymouth, MI on Penniman Avenue and Barrio on Forest Avenue. Pizza and Vino and Barrio both have spotless records with the Michigan Liquor Control Commission and City of Plymouth, and have never been cited for ordinance violations or complaints from residents.

**CITY OF PLYMOUTH
PLAN OF OPERATION**

Dean Rovinelli is also the successful restaurant owner of Barrio on Forest Avenue. Barrio has spotless records with the Michigan Liquor Control Commission and City of Plymouth and has never been cited for ordinance violations or complaints from residents.

Together we are fully committed to:

- * Providing an accommodating and worthwhile experience for local residents and out-of-town visitors
- * Aligning ourselves with community demand for a broader range of lifestyle options by creating a great looking space that offers fresh, high quality, and artisanal food.
- * Adding to the downtown vibrancy

XI. EMERGENCY CONTACTS:

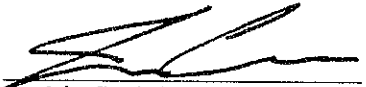
Dean Rovinelli (c) 734-776- 3325
John Corsi (c) 248-974-7347

Date: August 12, 2020

The Locale, LLC/ Barrio Cocina Tequileria
Corporate Name/Doing Business As



By: Dean Rovinelli, Owner
Name/Title



By: John Corsi, Owner
Name/Title

R E S O L U T I O N

The following Resolution was offered by _____ and seconded by _____.

WHEREAS The City of Plymouth has a Liquor Management Ordinance which Requires licensed establishments to update their operations plans When they make changes, and

WHEREAS Barrio Cocina has applied to the State of Michigan for a permanent Additional space at their establishment, and

WHEREAS The City Planning Commission has authorized the use of this additional Space and they have applied for the various building permits for the Addition, and

WHEREAS The stockholders have requested to move stock between the current Holders of stock, and

WHEREAS The Local Liquor License Review Commission held a meeting to review This Request and the City Commission did hold a public hearing to hear Comments from the public.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby accept the updated Operations Plan from Barrio Cocina to include additional space as outlined in their plan and for the transfer of stock between the current owners of the establishment.



Administrative Recommendation

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

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

To: Mayor & City Commission
From: Paul J. Sincock, City Manager
CC: S:\Manager\Sincock Files\Memorandum - Add Space Outdoor Service Area & stockholders Penn Grill 09-08-20.docx
Date: August 20, 2020
RE: Liquor License **Public Hearing** – Penn Grill Outdoor Service Area & change in Stockholders

Background

To comply with the City's Liquor Management Ordinance, the ownership of the Penn Grill needs to update their operations plan and their filings with the City to add a permanent outdoor service area. This area would be located in the alley between the Penn Grill and Kilwins. They are currently using this space under the Michigan Liquor Control Commission covid rules for expanded outdoor space. This action would make that seating area permanent.

The agreement that the owners of the Penn Grill have with the owner of the property indicates that the Penn Grill staff would be responsible to remove the tables and chairs from this area to allow garbage truck access to the dumpster located in this alley. During periods of time that the Penn Grill is using the area for seating they put a cover in front of the dumpster to block it from view.

The space has already been approved by the Michigan Liquor Control Commission and the ownership is bringing this matter forward in order to come into compliance with our Liquor Management Ordinance.

In addition, the ownership group is looking to change stockholders, by deleting one current stockholder and then splitting the stock equally between the two remaining owners. Again, this has already been through the MLCC process.

The City Commission needs to hold a Public Hearing on this matter and hear any public input on this issue. Further, the Local Liquor License Review Committee heard this matter prior to the City Commission meeting.

RECOMMENDATION:

Assuming that LLRC has recommended approval, we have attached a proposed Resolution for the City Commission to consider regarding this matter.

Should you have any questions in advance of the meeting please feel free to contact Al Cox or myself.

LAW OFFICES OF
DIXON & MacDONALD, P.C.
24901 NORTHWESTERN HIGHWAY, SUITE 200
SOUTHFIELD, MICHIGAN 48075

CLARENCE O. DIXON
SCOTT D. MacDONALD

WRITER E-MAIL:
scottmac@dixon-macdonald.com

TELEPHONE (248) 865-8866
FACSIMILE (248) 865-8822

July 25, 2020

Plymouth Liquor License Review Committee
Attn: Chief of Police, Al Cox
Via electronic mail to acox@plymouthpolice.org

RE: APPLICATION TO TRANSFER UNITS BETWEEN EXISTING MEMBERS

Licensee: VWS Holdings, LLC d/b/a Penn Grill
Licensed Premises: 820 Penniman Ave., Plymouth, MI 48170
Current Members: William Farwell (33-1/3%), Vincent Spica (33-1/3%), Susan Knight (33-1/3%)
Proposed Members: William Farwell (50%), Vincent Spica (50%)

Dear Chief Cox:

My office represents VWS Holdings, LLC d/b/a Penn Grill ("Licensee"). The Licensee is currently owned by William Farwell (33-1/3%), Vincent Spica (33-1/3%), Susan Knight (33-1/3%). Following approval, Mr. Farwell will hold 50% and Mr. Spica will hold 50%. No new members are proposed. Copies of the following documents are enclosed for review by the Liquor License Review Committee:

1. City of Plymouth Liquor License Review Committee Application;
2. Membership Interest Redemption Agreement; and
3. Amendment to Membership Interest Redemption Agreement.

It is my understanding that the Licensee will deliver its check for the \$300 application fee directly to the City Clerk.

Thank you for your kind attention to this letter and its enclosures. We look forward to any questions or comments that you or the other members of the LLRC may have.

Very truly yours,
DIXON & MacDONALD, P.C.



Scott D. MacDonald

SDM

Enclosures as noted above
cc (via electronic mail, with enclosures): William Farwell, Vincent Spica, Susan Knight

**CITY OF PLYMOUTH
LIQUOR LICENSE REVIEW COMMITTEE
APPLICATION**

Name of Applicant: *VWS Holdings, LLC d/b/a Penn Grill*

Address of Applicant: *820 Penniman Ave., Plymouth, MI 48170*

Phone Number of Applicant: *734-660-4958 (Vincent Spica)*

Fax Number of Applicant: _____

Email Address of Applicant: *vincent.spica@yahoo.com*

Please List Name, Address and type of license as it appears on current Liquor License:

VWS Holdings, LLC d/b/a Penn Grill

820 Penniman Ave., Plymouth, MI 48170

Class C and SDM

List All Persons Listed on Liquor License (Partners):

William Farwell (33-1/3%), Vincent Spica (33-1/3%), Susan Knight (33-1/3%)

Please list type of license that you are requesting (new, permit, transfer of ownership, transfer into the City, etc.):

Change in ownership to: William Farwell (50%), Vincent Spica (50%)

Please list Name, Address and type of license as it is proposed (If change approved):

Name, address and type of license would stay the same.

Please list all persons listed on proposed Liquor License (Partners):

William Farwell and Vincent Spica

Fee Schedule:

Liquor License Investigations	
Class C or Private Club License:	
New license or transfer of ownership	\$600.00
Amend stockholders	\$300.00
Relocation of existing license (per person named on request)	\$300.00
Dance or entertainment permit	\$200.00
SDD/SDM:	
New license or transfer of ownership	\$400.00
Relocation of existing license (per person named on request)	\$300.00
Add or drop space on license	\$100.00
Special license and one-day permits	\$100.00

Please submit plan of operation (if required, see Section #4 of Ordinance):

CITY OF PLYMOUTH
 201 S MAIN
 PLYMOUTH, MI 48170
 Phone : 734-453-1234
 WWW.CI.PLYMOUTH.MI.US

Received From:
 Date: 07/29/2020
 Receipt: 369981
 Cashier: TLB
 Time: 10:36:42 AM

ITEM REFERENCE	AMOUNT
LICEN LICENSES	
LIQUOR LICENSE	\$300.00
TOTAL	\$300.00
CHECK 14625	\$300.00
Total Tendered:	\$300.00
Change:	\$0.00

DocuSigned by:
 Signature of Applicant: Vincent Spica Date: 7/20/2020
0AEC5189B45D476
 Vincent Spica, Authorized Member

MEMBERSHIP INTEREST REDEMPTION AGREEMENT

THIS MEMBERSHIP INTEREST REDEMPTION AGREEMENT (the "Agreement") is entered into on this September 17, 2019, by and among **SUSAN A. KNIGHT**, as Trustee of the Susan A. Knight Trust U/A/D 1/28/2001 ("Knight"); **PENN AVE. PARTNERS, LLC**, a Michigan limited liability company (the "Company"); **VINCENT SPICA** ("Spica"); and **WILLIAM B. FARWELL** ("Farwell"); collectively, the "parties", with reference to the following facts and circumstances, all of which are true and incorporated into this Agreement:

A. Knight owns a thirty-three and one-third percent (33-1/3%) membership interest in the Company (the "Membership Interest");

B. Knight desires to sell and Company desires to purchase the Membership Interest pursuant to that certain Promissory Note executed on even date herewith, which has been personally guaranteed by Spica and Farwell, subject to the further terms of this Agreement; and

C. Knight also owns and desires to redeem her thirty-three and one-third percent (33-1/3%) membership interest in **VWS HOLDINGS, LLC**, a Michigan limited liability company, pursuant to the terms and provisions of a separate Membership Interest Redemption Agreement executed on even date herewith, and a separate Promissory Note made and executed by **VWS HOLDINGS, LLC** on even date herewith, which Promissory Note is likewise guaranteed by Spica and Farwell.

NOW, THEREFORE, in consideration of the collective promises, representations, warranties and covenants contained in this Agreement, the parties agree as follows:

1. Purchase and Sale of Membership Interest. Subject to the terms and conditions of this Agreement, Company agrees to purchase from Knight, and Knight agrees to sell to Company, Knight's entire Membership Interest. In consideration thereof, Company agrees to pay Knight One Hundred Fifty Thousand Dollars (\$150,000.00) (the "Purchase Price") with interest at the rate of seven percent (7%) per annum, compounded monthly, on or before August 1, 2024 (the "Maturity Date"). Upon execution of this Agreement, Company shall make and deliver to Knight the Promissory Note attached as Exhibit 'A'; Spica and Farwell shall execute and deliver to Knight the Guaranties attached as Exhibit 'B'; Knight shall execute and deliver to Spica and Farwell an Assignment of Voting Rights in the form attached as Exhibit 'C'; Knight shall execute and deliver to Spica and Farwell an Assignment of Financial Rights in the form attached as Exhibit 'D'; and Knight shall execute and deliver into escrow an Assignment of Membership Interest in the form attached as Exhibit 'E' pursuant to that certain Escrow Agreement executed on even date herewith. A payoff calculation as of the Maturity Date is attached as Exhibit 'F'.

2. Closing. The closing of the transaction contemplated by this Agreement (the "Closing") shall take place within fourteen (14) days after the Michigan Liquor Control Commission issues its Order of Approval for transactions contemplated under the Membership Interest Redemption Agreement referenced in Recital 'C' of this Agreement, at such date and location as the parties may mutually determine, or August 1, 2024, whichever is later (the "Closing Date"). At the Closing, Company shall fully satisfy the Promissory Note and the parties shall jointly instruct the escrow agent under the Escrow Agreement to release the

Assignment of Membership Interest to Company, which shall be effective for all purposes on the date released, but not before.

3. Representations and Warranties of Knight. Knight represents and warrants to Company as of the date of this Agreement and as of the Closing that:

(a) Knight has full power and authority to execute and deliver this Agreement and to perform her obligations under it, and that this Agreement constitutes the valid and legally binding obligation of Knight, enforceable in accordance with its terms and consideration;

(b) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated by it will constitute a default under or require any notice under any agreement to which Knight is a party or by which he/she is bound;

(c) Knight holds of record, and owns beneficially, the Membership Interest, free and clear of any restrictions on transfer (other than any restrictions under the Operating Agreement or applicable law), taxes, security interests, options, warrants, purchase rights, contracts, commitments, equities, claims or demands;

(d) Knight has neither actual knowledge nor reason to know of any action, proceeding or investigation pending or threatened against her before any court, commission or administrative agency that might materially and adversely affect the Membership Interest sold hereunder; and

(e) Documents, statements and writings submitted to the Company or its representatives, in relation to the Membership Interest to be conveyed under the terms of this Agreement, are genuine and in all respects what they purport to be, in that said documents, attachments, and writings have not omitted any material facts necessary to make this transaction misleading.

4. Representations and Warranties of Company. Company represents and warrants to Knight as of the date of this Agreement and as of the Closing that:

(a) Company has full power and authority to execute and deliver this Agreement and to perform its obligations under it, and that this Agreement constitutes the valid and legally binding obligation of Company, enforceable in accordance with its terms and consideration.

(b) Neither the execution and delivery of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a default under or require any notice under any agreement to which Company is a party or by which Company is bound.

5. Indemnities. As of the Effective Date, the parties agree to the following obligations, which shall survive Closing:

(a) Knight shall indemnify and hold harmless Company, Spica and Farwell, and their respective successors and assigns, from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorney fees relating to, arising out of, or resulting from Knight's breach of any covenant, representation or warranty set forth in this Agreement.

(b) Company, Spica and Farwell shall jointly and severally indemnify and hold harmless Knight, her successors and assigns, from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorney fees relating to, arising out of, or resulting from Company's breach of any covenant, representation or warranty set forth in this Agreement.

(c) Company, Spica and Farwell shall jointly and severally indemnify and hold harmless Knight, her successors and assigns, from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorney fees relating to, arising out of, or resulting from third-party claims accruing after the date of this Agreement, including but not limited to payroll withholding and sales tax liabilities.

6. Releases. As of the Effective Date, the parties agree to the following obligations, which shall survive Closing:

(a) Upon Company's full payment of all principal, interest and other sums owed of the Promissory Note, the Company, Spica and Farwell, and their respective successors and assigns, shall be fully released and discharged from all other losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, if any, owed to Seller, except as necessary to enforce this Agreement.

(b) Upon execution of this Agreement, Knight, and her successors and assigns, shall be fully released and discharged from all other losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, if any, owed to Company, Spica and/or Farwell, except as necessary to enforce this Agreement.

7. Non-Assignability. This Agreement shall not be assignable by any party without the prior written consent of the other party.

8. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

9. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, administrators, executors, personal representatives, successors and assigns.

10. Waiver of Breach. A waiver by any party of a breach of any provision of this Purchase Agreement by any other party shall not operate to be construed (a) as continuing, or (b) as a bar to, or waiver or release of, any subsequent right, remedy, or recourse as to a subsequent event, or, as a waiver of any subsequent breach by that other party.

11. Cross-Default. The parties agree that any breach by VWS HOLDINGS, LLC under the Membership Interest Redemption Agreement referenced in Recital 'C' of this Agreement, or any of its exhibits, shall, at Knight's option, also constitute a breach by Company, Spica and Farwell under this Agreement. The parties further agree that any breach by Knight under the Membership Interest Redemption Agreement referenced in Recital 'C' of this Agreement, or any of its exhibits, shall, at Company's option, also constitute a breach by Knight under this Agreement.

12. Course of Conduct. No course of conduct between the parties hereto, nor any delay in exercising any rights or remedies hereunder or under any communication, report, notice or other documents or instrument referred to herein, shall operate as a waiver of any of the rights or remedies of the parties hereto.

13. Amendment. This Agreement shall not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

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

15. Gender and Number. As the context of any provision may require, nouns or pronouns of any gender and number shall be construed in any other gender and number.

16. Severability. Should any covenant, condition, term or provision of this Agreement be deemed to be illegal, or if the application thereof to any person or any circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such covenant, condition, term or provision to persons or in circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby; and each covenant, condition, term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

17. Survival. The parties acknowledge and agree that this Agreement contains substantial terms and provisions which are intended to govern the rights duties and obligations of the parties following the Closing. Accordingly, this Agreement shall survive and shall not be deemed merged into, the execution or delivery or any documents, property, or payments pursuant to the terms hereof; and this Agreement shall remain in full force and effect following the Closing.

18. Captions. Captions used herein are inserted for reference purposes only and shall not affect the interpretation or construction of this Agreement.

19. Time of Essence. Time is of the essence in the performance of all obligations under Purchase Agreement.

20. Confidentiality. The parties agree that the terms and conditions of this Agreement shall be kept confidential until the Closing, except as otherwise required by law or by a court of competent jurisdiction.

21. Notices. Any and all notices under this Agreement shall be sent by certified mail, return receipt requested, to the addresses as shown below, or such other address as a party may advise in writing:

If to Knight: Susan A. Knight
50295 Fellows Hill Drive
Plymouth, MI 48170

If to Company, Spica or Farwell: Penn Ave. Partners, LLC
820 Penniman Ave.
Plymouth, MI 48170

22. Use of Legal Counsel. Each party acknowledges that this Agreement was drafted with the assistance of Attorney Scott D. MacDonald, of Dixon & MacDonald, P.C., as scrivener only and at the request of all parties to this Agreement, and agrees that each such party, for him/herself, his/her successors and assigns, waives any claim against the aforementioned attorney and/or law firm arising from or alleging a conflict of interest. The parties to this Agreement have either consulted with their legal counsel concerning the terms and conditions of this Agreement or knowingly and freely elected to not seek legal counsel in entering into this binding legal Agreement. As a result, neither party shall be deemed to have been the drafter of this Agreement, and no presumptions shall be made regarding ambiguities or their construction against one party or the other.

23. Entire Agreement. This Agreement, including any attached exhibits and documents referenced herein, embodies the entire agreement and understanding of the Parties with respect to its subject matter and supersedes all prior discussions, agreements, and undertakings between the Parties.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereunto have executed this Membership Interest Redemption Agreement as of the Effective Date first above written.

KNIGHT:

Susan Knight Dated: 9/17/19
SUSAN A. KNIGHT, as Trustee of the Susan A. Knight Trust U/A/D 1/28/2001

COMPANY:

[Signature] Dated: 9/17/19
PENN AVE. PARTNERS, LLC
By: Vincent Spica
Its: Authorized Member

-and-

[Signature] Dated: 9/17/19
PENN AVE. PARTNERS, LLC
By: William B. Farwell
Its: Authorized Member

SPICA:

[Signature] Dated: 9/17/19
VINCENT SPICA

FARWELL:

[Signature] Dated: 9/17/19
WILLIAM B. FARWELL

LAW OFFICES OF
DIXON & MacDONALD, P.C.
24901 NORTHWESTERN HIGHWAY, SUITE 200
SOUTHFIELD, MICHIGAN 48075

CLARENCE O. DIXON
SCOTT D. MacDONALD

TELEPHONE (248) 865-8866
FACSIMILE (248) 865-8822

WRITER E-MAIL:
scottmac@dixon-macdonald.com

July 25, 2020

Plymouth Liquor License Review Committee
Attn: Chief of Police, Al Cox
Via electronic mail to acox@plymouthpolice.org

RE: APPLICATION FOR PERMANENT OUTDOOR SERVICE AREA

Applicant/Licensee: VWS Holdings, LLC d/b/a Penn Grill
Licensed Premises: 820 Penniman Ave., Plymouth, MI 48170

Dear Chief Cox:

My office represents VWS Holdings, LLC, which is applying for a Permanent outdoor service area on private property adjacent to the Licensed Premises. Copies of the following documents are enclosed for review by the Liquor License Review Committee:

1. City of Plymouth Liquor License Review Committee Application;
2. Diagram of the proposed outdoor service area, showing the exact width and length, the height of barriers, and points of ingress and egress;
3. Photograph of the proposed outdoor service area;
4. Photograph of the proposed barrier; and
5. Lease Agreement for the proposed outdoor service area.

Thank you for your kind attention to this letter and its enclosures. We look forward to any questions or comments that you or the other members of the LLRC may have.

Very truly yours,

DIXON & MacDONALD, P.C.



Scott D. MacDonald

SDM/bsa

Enclosures as noted above

cc: Vincent Spica (via electronic mail, w/encs.)

**CITY OF PLYMOUTH
LIQUOR LICENSE REVIEW COMMITTEE
APPLICATION**

Name of Applicant: WWS Holdings, LLC d/b/a Penn Grill _____

Address of Applicant: 820 Penniman Ave. _____
Plymouth, MI 48170 _____

Phone Number of Applicant: 734-660-4958 _____

Fax Number of Applicant: _____

Email Address of Applicant: vincent.spica@yahoo.com _____

Please List Name, Address and type of license as it appears on current Liquor License:

WWS Holdings, LLC d/b/a Penn Grill _____

820 Penniman Ave., Plymouth, MI 48170 _____

Class C and SDM _____

List All Persons Listed on Liquor License (Partners):

Vincent Spica, William Farwell, Susan Knight

Please list type of license that you are requesting (new, permit, transfer of ownership, transfer into the City, etc.):

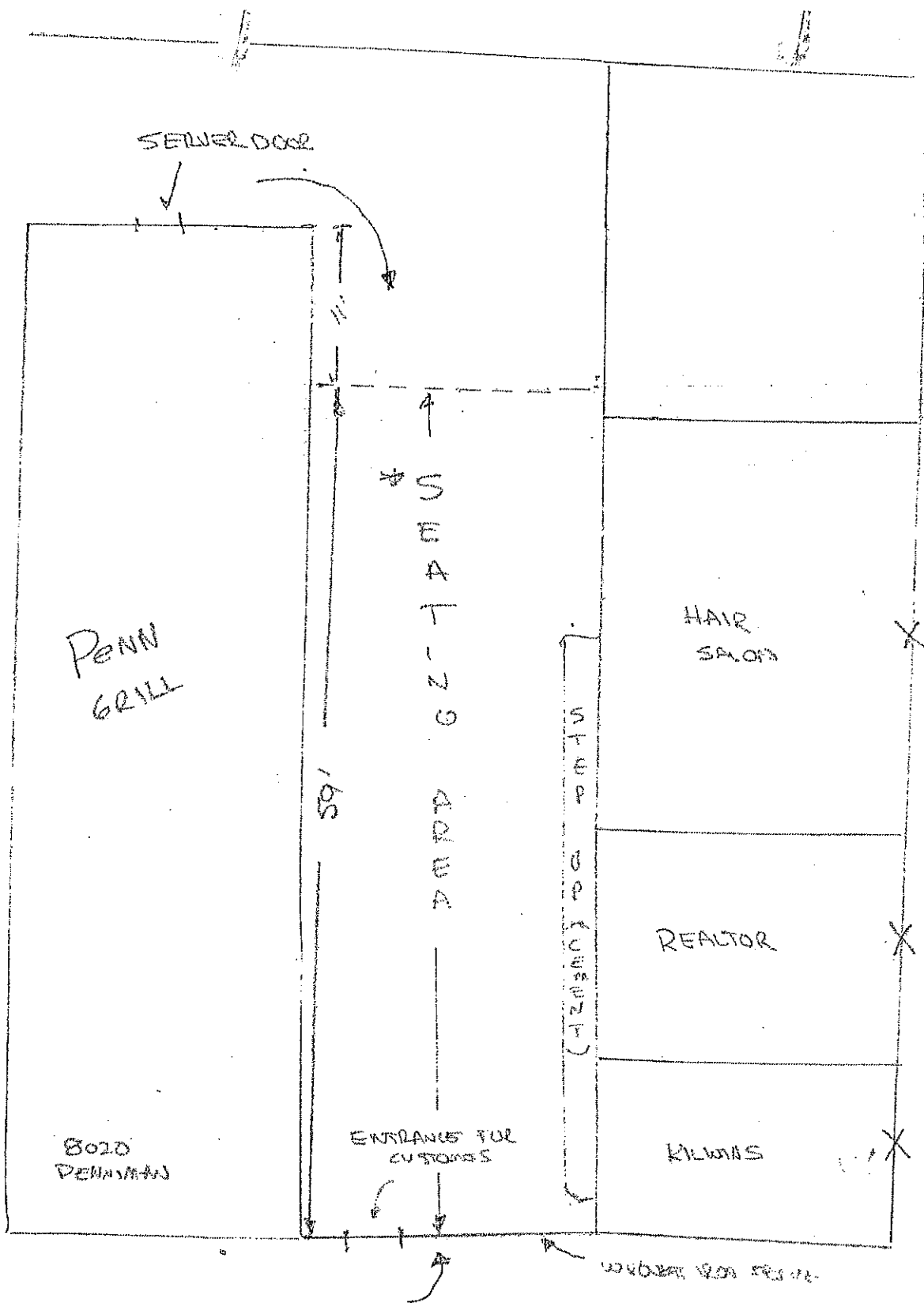
Permanent Outdoor Service Area on private property.

Please list Name, Address and type of license as it is proposed (If change approved):

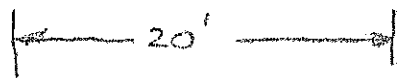
Name, address and type of license would stay the same.

Please list all persons listed on proposed Liquor License (Partners):

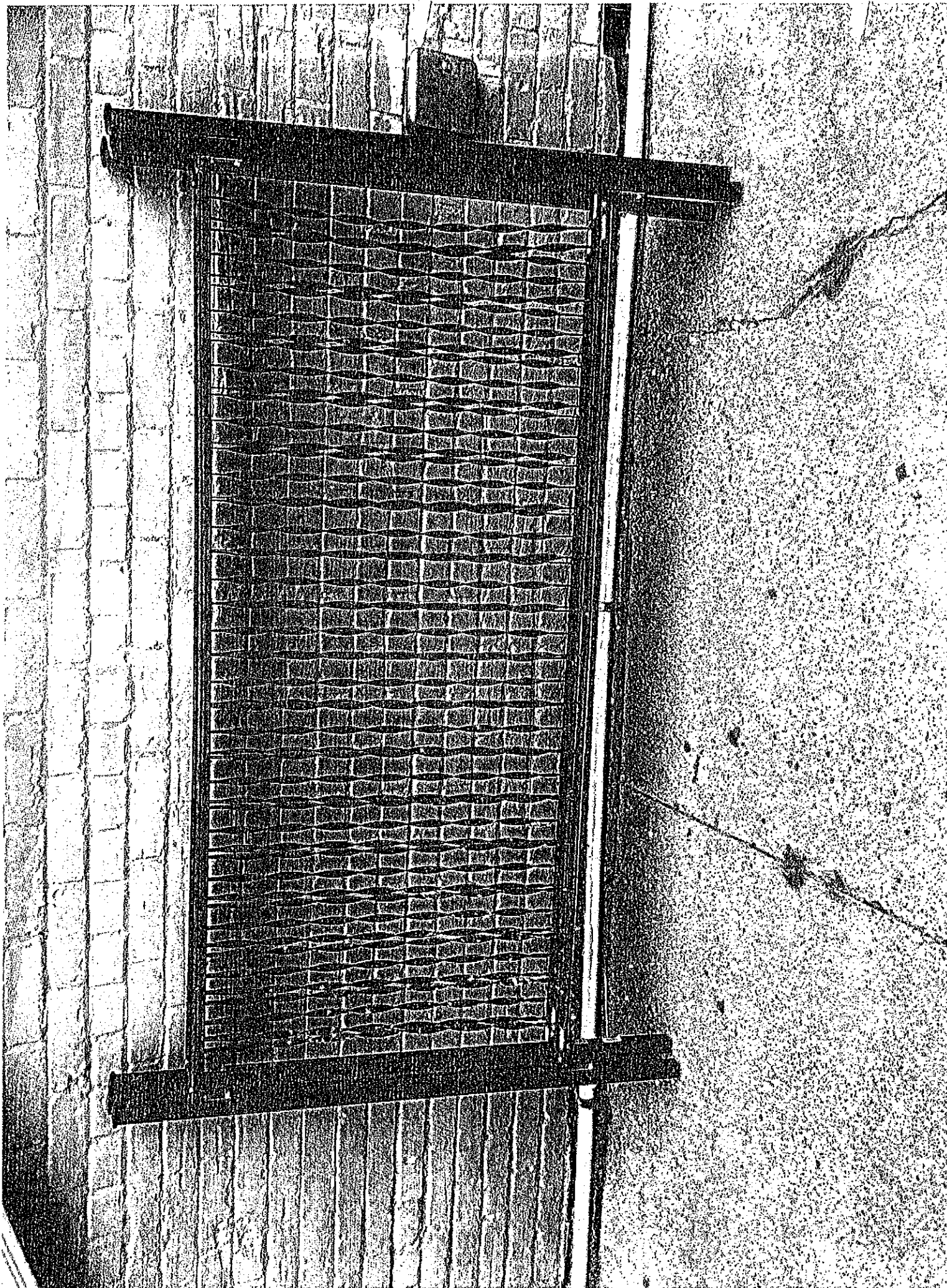
No change in ownership is proposed.



PROPOSED OUTSIDE ALLEYWAY USE



* SEATING DEPENDS ON STATE REGULATION
 ** CORONA VIEWS SITUATION



LEASE

THIS LEASE is made as of this 1st day of April 2020 by and between

Downtown Plymouth LLC (The Landlord) and VWS HOLDINGS LLC (The Tenant)

WHEREAS, Landlord is the owner of certain improved property which Landlord desires to lease; and WHEREAS, Tenant desires to lease that certain improved property from Landlord on the terms and conditions set forth in this Lease. (Alleyway @ 296 S. Main St. Plymouth MI 48170)

NOW, THEREFORE, in consideration of the foregoing premises, the rents, mutual covenants, promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord that certain real property and all improvements thereon situated in the City of Plymouth, Wayne County of MICHIGAN, and more commonly known as 296 South Main Street Plymouth, MI 48170 (Alleyway behind 296 S. Main Plym)

2. Term; Option to Renew. This Lease shall term for May 29, 2020 thru Nov 1, 2020. TENANT MUST REMOVE PATIO FURNITURE PRIOR TO REMOVAL OF GARBAGE. Tenant shall have the option to renew this Lease for an additional term of Three (3) year commencing at the expiration of the initial term of this Lease on the same terms and conditions set forth herein if Tenant gives Landlord notice of Tenant's intent to exercise its option to renew at least Thirty (60) days prior to the expiration of the initial term of this Lease. Tenant has right to pick-up. Any Additional Fees incurred by Landlord due to Garbage Extra pick-ups. Are the responsibility of the Tenant.

3. Rent. During the term of this Lease, Tenant agrees to pay rent in equal monthly \$450 (Four hundred fifty dollars)

installments to Landlord on or before the first day of each month, in advance, without demand, to and at the address of Landlord as set forth herein.

\$450 per Month / for the first year. ~~3%~~
~~increase per year after the first year.~~

Rent for any period during the term of this Lease that is for less than one (1) month shall be a pro rata portion of the monthly installment of rent. If Tenant fails to pay any installment of rent by the tenth (10th) day of the month in which such installment is due, a late charge of Ten (\$10.00) a Day shall accrue and be due and payable for such late payment.

4. Taxes, Utilities, Insurance and Reserves. If checked below, Tenant (and not Landlord) shall pay the following items:

a. Taxes and Governmental Assessments. Any and all real property taxes (not personal taxes)

and other governmental assessments against the Project Property, whether or not such taxes and assessments increase during the term of this Lease;

b. Association Fees/Dues. Any and all fees, dues and other assessments against the Project Property because of its inclusion in a condominium regime, a business/industrial park, or other landowners' association;

X c. Utility and Janitorial Charges. Any and all utility charges, including gas, water, electricity, sewer and telephone, which may be levied, assessed or imposed upon the Project Property, and Tenant will provide janitorial services to the Project Property.

X d. Insurance. Tenant shall maintain, during the term of this Lease, adequate hazard insurance policies (broad form coverage), including, without limitation, fire, arson, lightning, sewer backups, flooding and extended coverage, and coverage with respect

to vandalism and malicious mischief and such other hazards as may be deemed appropriate by Landlord in its sole discretion, for the full replacement cost of the Project Property or, if not available, the maximum insurable value. Hazard

insurance shall name Landlord as an additional insured. Each such hazard insurance policy shall contain provisions that: (1) the policy cannot be terminated or canceled by any party without a minimum of thirty (30) days written notice to Landlord, and (2) should loss be caused by or on behalf of Tenant the insurer shall not be relieved of liability to pay Landlord unless said loss was caused by Landlord. If, as a result of Tenant use or occupancy of any portion of the Project Property, Landlord is charged any increase in premiums on insurance separately carried by Landlord, Tenant shall promptly pay on demand the amount of such increase.

X e. Repairs and Replacements. Any and all expenses of keeping the interior (interior of the Project Property) in good repair, order, and condition, and Tenant shall deliver the Project Property to Landlord at the end of the term of this Lease in the same condition as at the start of this Lease, ordinary wear and tear excepted. Tenant acknowledges that the Project Property is in good order and repair unless Tenant has given notice otherwise to Landlord within ten (10) days of Tenant's taking possession of the Project Property. ~~Tenant is responsible for any furnace repairs under \$250 (Repairs \$251 and greater are Landlord responsibilities) for the first Twelve (12) months of this lease. Tenant is responsible for the furnace thereafter. Salon Awesome is fully responsible for the AC.~~

Regardless of whether subparagraph a. is checked above, Tenant shall pay any and all personal property taxes that may be assessed upon Tenant's property located in the Project Property.

5. Tenant's Liability Insurance. Landlord shall not be liable for liability or damage claims for injury to persons or property from any cause whatsoever relating to the occupancy of the Project Property by Tenant, including those arising out of damages or losses occurring in parking lots and other areas adjacent

to the Project Property. Tenant agrees to procure and maintain a comprehensive general liability policy or policies of insurance, at its own cost and expense, insuring Landlord and Tenant, from all claims, demands, or actions for, injury to, or death of any one person in an amount of not less than \$1,000,000.00, and for injury to, or death of more than one person in any one accident in an amount of not less than \$500,000.00, and for damage to property in an amount of not less than \$500,000 made by or on behalf of any person or entity arising from, relating to, or connected with the conduct and operation of any business in the Project Property. A copy of Tenant's insurance policy will be furnished to Landlord upon Landlord's request. Tenant will indemnify and save harmless Landlord from any and all liability, Attorney fees, damages, expenses, costs of action, suits, claims, or judgments arising from injuries to person or property on the Project Property.

~~6. Tenant's Personal Property and Fixtures. All personal property and fixtures of the Tenant in the Project Property shall be at the sole risk of Tenant. Landlord shall not be liable for any accident or damage to property of Tenant resulting from the use of heating, cooling, electrical or plumbing apparatus. Landlord shall not, in any event, be liable for damage to Tenant's property resulting from water, steam or other causes. Tenant hereby expressly releases Landlord from any and all liability incurred or claimed by reason of damage to Tenant's personal property and fixtures.~~

7. Purpose. Tenant shall use and occupy the Project Property solely for use as a outdoor patio and not for any other purpose than that stated in this Paragraph.

8. Tenant Alterations and Improvements. Tenant shall not make any alterations or improvements to the Project Property without the prior written consent of Landlord. Landlord shall have the right to approve any plans of Tenant for the design of the interior of the Project Property, which approval shall not be unreasonably withheld. Any additions, improvements, alterations, and/or installations made by Tenant, except movable office furniture, fixtures, machinery or equipment,

shall become and remain a part of the building and be and remain
Landlord's property at Landlord's option. Tenant will save
Landlord harmless from and against any and all expenses,
liens, claims or damages to either property or person which
may or might arise by reason of the making of any such
addition, improvement, alteration, and/or installation.

9. Fixtures. Tenant, at Tenant's expense, may install any
furniture, fixtures,
machinery and/or equipment necessary to conduct Tenant's
business, and the same, which is personal property, shall
remain Tenant's property provided they be removed before
the expiration of the term of this Lease. In the event any
damage is done to the Project Property in said removal,
Tenant will promptly reimburse Landlord for the cost of
such repairs as are necessary to restore the Project Property
to its original condition. Any furniture, fixtures, machinery
and equipment not so removed before expiration of the
term of this Lease or any extension thereof shall be deemed
to have been abandoned by Tenant and shall become
Landlord's property.

10. Use and Care of Project Property. Tenant will not use or
permit any person to use the Project Property or any part
thereof in violation of the laws of the United States of
America, the State of Michigan, the ordinances or other
regulations of any county or municipality in which the
Project Property is situated, or any restrictions in the Deed
or otherwise of record. Tenant will keep the Project
Property and every part thereof in a clean and wholesome
condition, and that Tenant will in all respects and at all
times fully comply with all lawful health, fire and police
regulations.

11. Default and Re-Entry.

a. If Tenant shall default in any term or condition to be
performed by Tenant hereunder, and such default shall
continue for thirty (30) days after notice thereof in writing
by Landlord to Tenant, or (1) if proceedings in bankruptcy
are instituted by or against Tenant, or (2) if a receiver or
trustee is appointed for all or substantially all of Tenant's
business or assets, or (3) if Tenant shall make an
assignment for the benefit of its creditors, or

(4) if Tenant shall vacate or abandon the Project Property; then, in such event, Landlord, at Landlord's option, may declare the term of this Lease ended and Tenant's right of possession shall thereupon cease and terminate, and Landlord shall be entitled to possession of the Project Property and may re-enter the Project Property or any part thereof, with or without process of law, any other notice to quit or of the intention of the Landlord to re-enter the Project Property being hereby expressly waived by Tenant, and Landlord may expel and remove Tenant and all persons occupying the Project Property under Tenant, using such force as may be necessary to do so, and may repossess and enjoy the Project Property, all without such re-entry and repossession working a forfeiture of the rents to be paid and the terms and conditions to be performed by Tenant during the full term of this Lease. If the default cannot with due diligence be cured within a period of thirty (30) days, and if Tenant, within the thirty (30) days after the giving of notice of default by Landlord to Tenant, commences and proceeds diligently and with reasonable dispatch to take all steps and do all work required to cure the default and does cure the default, then Landlord shall not have the right to declare the term of this Lease ended by reason of such default; provided, however, that such default shall only be considered cured if acted upon by Tenant with reasonable diligence within the thirty (30) days after the giving of notice of default even if the cure is not completed within such thirty (30) days, and provided further, that the curing of any default in such manner shall not be construed to limit or restrict the right of Landlord to declare the term of this Lease ended and to enforce all Landlord's rights and remedies hereunder for any other default not so cured.

b. The foregoing provisions for the termination of this Lease for any default by Tenant shall not operate to waive, exclude or suspend any other right or remedy of Landlord for breach of any of the terms or conditions of this Lease or for the recovery of rent or any advance by Landlord made thereon. In the event of termination of this Lease as aforesaid, Tenant agrees to indemnify and save Landlord harmless from any losses arising from such termination and re-entry in pursuance thereof. To that end Tenant agrees to pay to Landlord after such

termination and re-entry, at the end of each month of the term of this Lease, the difference between the net income actually received by Landlord from the Project Property during such month and the rent agreed to be paid by Tenant under this Lease during such month, together with the expenses of reletting and altering the improvements on the Project Property, commissions and attorneys fees.

12. Remedies.

a. No right or remedy in this Lease or otherwise conferred upon or reserved to Landlord shall be considered exclusive of any other remedy, but the same shall be in addition to every other right or remedy given hereunder or hereafter existing at law or in equity or by statute, and every right and remedy given by this Lease to Landlord may be exercised from time to time and as often as occasion may arise or as may be deemed expedient by Landlord. No delay or omission of Landlord to exercise any right or remedy arising from any default shall impair any such right or remedy or shall be construed to be a waiver of any default or an acquiescence therein.

b. No waiver by Landlord of any breach by Tenant of any of the terms or conditions of this Lease shall be construed, taken or held to be a waiver of any other breach or acquiescence in or consent to any further or succeeding breach of the same term or condition.

c. Neither the rights given in this Lease to receive, collect, sue for or distrain for any rent or rents, monies or payments, or to enforce the terms and conditions of this Lease, or to prevent the breach or non-observance thereof, or the exercise of any such right or of any other right or remedy hereunder or otherwise granted or arising shall in any way affect or impair or toll the right or power of Landlord to declare the term of this Lease ended and to terminate this Lease as provided because of any default in or breach of any of the terms or conditions of this Lease by Tenant.

13. Surrender of Project Property. Whenever the term of this Lease shall be terminated, whether by lapse of time or

forfeiture or in any other way, Tenant will at once surrender and deliver up the Project Property peaceably to Landlord in as good as condition as when Tenant took possession, ordinary wear and tear and any approved alterations and changes and any damage caused by perils covered by insurance, excepted. If Tenant shall hold over after any termination of this Lease, the same shall create no more than a month-to-month tenancy at the rent and on all the other applicable terms and conditions of this Lease.

14. Assignment and Subletting. This Lease shall not be directly or indirectly assigned (including by operation of law), nor any portion of the Project Property sublet, without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Any sale of assets not in the ordinary course of business by Tenant or any sale of twenty-five percent (25%) or more of the ownership interests in Tenant shall be considered an assignment. A consent by Landlord to any one assignment or sublease shall not be a consent to any subsequent assignment, sublease, or occupation of the Project Property by other persons. An unauthorized assignment, sublease, or license to occupy by Tenant shall be void and shall terminate this Lease at the option of Landlord.

15. Subordination. This Lease is and shall be subordinate to any deed of trust, mortgage or trust indenture now or hereafter placed on the Project Property, including but not limited to the trust indenture securing the 504 Loan, and to all advances already made or that may be made hereafter on account of any such deed of trust, mortgage or trust indenture, to the full extent of the principal sums secured thereby and interest thereon. Furthermore, Tenant shall on request hereafter execute any document or documents that Landlord or any other owner of the Project Property may deem necessary to accomplish such subordination of Tenant's interest in this Lease, in default of which Landlord or such owner is hereby appointed as Tenant's attorney-in-fact to act and to execute such document or documents in the name of Tenant as the act and deed of Tenant, and this authority is hereby declared to be coupled with an interest and irrevocable.

16. Condemnation. In the event of a taking of the whole or any part of the Project Property so as to render the Project Property economically unsuitable for the permitted use, either party shall have the right to terminate this Lease upon notice to the other party within thirty (30) days after receiving knowledge of the taking. Should either party elect to terminate this Lease, the term of this Lease shall cease as of the day the public authority assumes possession thereof; provided, however, that if such taking is for a temporary period not exceeding eighteen (18) months, neither party may terminate this Lease but all rent shall abate during such period. If, following a taking, this Lease shall continue in effect as to any portion of the Project Property, all rent shall be reduced by the proportion which the square footage of the Project Property taken bears to the initial square footage of the Project Property. All compensation awarded for any taking (including a temporary taking) shall be the property of Landlord, whether such damages shall be awarded as compensation for diminution in the value of the leasehold or the fee of the Project Property, and Tenant hereby assigns to Landlord all of Tenant's right, title and interest in and to any and all such compensation.

17. Casualty Damage and Destruction. If the Project Property shall be partially damaged by fire or other casualty and Tenant can reasonably carry on Tenant's business in the Project Property, then the Project Property shall be repaired or restored by Landlord, at Landlord's expense, due allowance being made for the time taken for the settlement of insurance claims and subject to Tenant having maintained any casualty insurance on the Project Property required to be maintained by Tenant. Until the repairs shall be made, the rent shall be reduced in proportion to that portion of the Project Property that is unusable, unless such damage was caused by the negligence of Tenant or an invitee of Tenant or if Tenant failed to maintain any required casualty insurance on the Project Property required to be maintained by Tenant. In the event of substantial destruction of the Project Property by fire or other casualty insured against as determined by Landlord in Landlord's discretion, Landlord shall have the option to restore the same promptly in accordance with the

provisions hereof, or to cancel and terminate this Lease upon notice to Tenant at any time within thirty (30) days after the date of such destruction.

18. Notices or Demands. Any notice upon Landlord or Tenant required or permitted to be given under this Lease shall be in writing and shall be deemed to have been duly and sufficiently given if a copy thereof has been personally delivered or mailed by United States registered or certified mail, postage prepaid to Tenant at the address of the Project Property and to Landlord at 296 South Main Street Plymouth, MI 48170. Any notice required or permitted to be given under this Agreement shall be deemed effective upon receipt or failure to accept delivery. Notice of any change in address shall be given as set forth in this Paragraph.

19. Quiet Enjoyment. Landlord covenants that the Project Property is zoned for the use intended and that Landlord is well seized of and has good title to lease the Project Property, that Landlord will warrant and defend the title thereto, and that Landlord will indemnify Tenant against any damage and expense Tenant may suffer by reason of any restriction on or defect in title to or description of the Project Property.

20. Entry by Landlord. Tenant, upon reasonable notice, agrees to allow Landlord or Landlord's representatives at any reasonable hour to enter the Project Property for the purpose of inspecting the same or for making any repairs that they may deem necessary or desirable, and Tenant agrees upon reasonable notice to permit the Project Property to be shown to prospective purchasers or tenants at reasonable hours and Tenant agrees that the owner may place a "for rent" sign on the Project Property at any time ninety days (90) prior to the expiration of this Lease.

20. Attorney; Fees. In the event of litigation between the parties arising out of this

Lease, the prevailing party shall be entitled to recover from the other party reasonable attorney fees in an amount to be affixed by the court and all costs incurred in connection

with such litigation.

21. Miscellaneous. Time is of the essence in all provisions of this Lease. All the terms and provisions of this Lease shall be binding upon and shall inure to the benefit of Landlord, Tenant, their heirs, executors, administrators, personal representatives, successors, trustees, receivers and assigns, as applicable, except as otherwise provided herein. The parties expressly agree that this Lease, and any issues concerning its execution, validity, performance and construction, shall be governed by the laws of the State of Michigan, exclusive of Downtown Plymouth LLC choice of law provisions. No modification, waiver, extension or other change of this Lease shall be binding unless executed in writing by the party against whom enforcement of any such modification, waiver, extension or change is sought. The captions in this Lease are used for convenience only and are not to be used in interpreting or construing this Lease. In the event that a court of competent jurisdiction finds any term or provision of this Lease invalid, illegal or unenforceable as applied to any circumstance, the remaining provisions of this Lease, and the same term or provision as applied to other circumstances, shall be unimpaired and remain in full force and effect. This Lease contains the entire agreement between the parties with respect to the subject matter hereof and each party acknowledges that it did not, in entering into this Lease, rely upon any representation or promise made by or on behalf of the other except as expressly set forth in this Lease.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first herein above written.

LANDLORD: Downtown Plymouth LLC

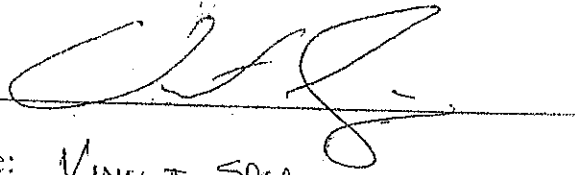
By:


Name: John MAZZEI

Title: MEMBER

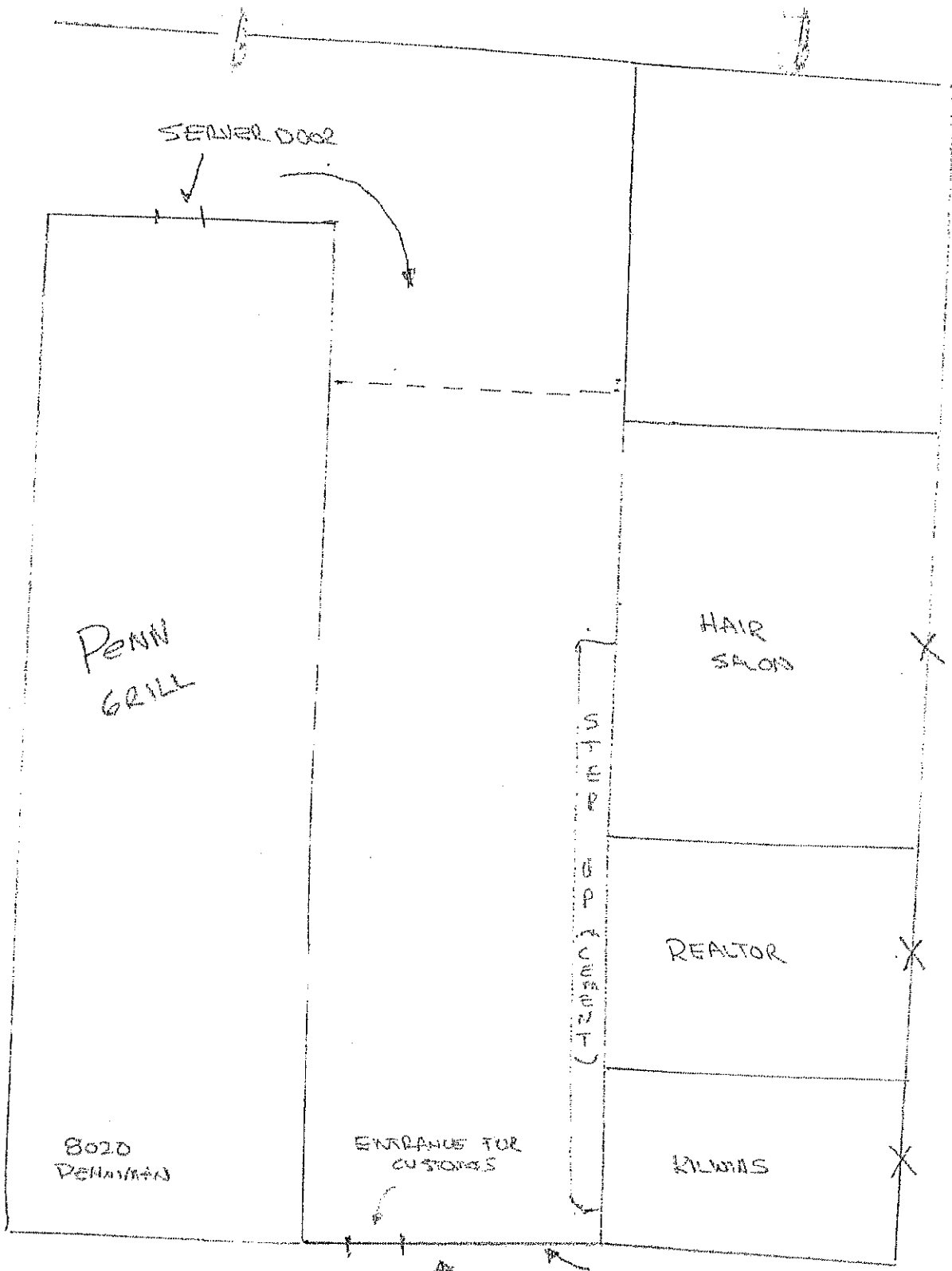
TENANT:

By:



Name: VINCENT SPICA

Title: MEMBER



PROPOSED OUTSIDE ALLEYWAY USE

**CITY OF PLYMOUTH
CLASS C/SDM LICENSED BUSINESS
PLAN OF OPERATION**

As of [insert date approved by City], 2020

Business Name:
VWS Holdings, LLC

Doing Business As:
Penn Grill

Street Address:
820 Penniman
Plymouth, MI 48170

INTRODUCTION

Preamble: We have received copies of Plymouth City Ordinance 2003-04, An Ordinance to Establish a General Policy for the management of Liquor Licenses and Permits, understand its provisions and will be governed by them. The following Plan of Operation is developed in keeping with the spirit and intent of this Ordinance.

DETAILS

- I. HOURS OF OPERATION:** At present, our hours of operation are Monday - Saturday, from 10:30 a.m. - 2 a.m., and Sunday from 12 p.m. - 2 a.m. Last call will be 30 minutes before closing and last service 20 minutes before closing. We may change hours on holidays as permitted by the MLCC.
- II. FORMAT:** The premises are operated as a full-service kitchen and bar, with an indoor seating capacity of 108. We offer two Outdoor Service Areas, including a sidewalk café on public property and a seating area on private property, as more fully described below. The menu format is American contemporary.

We agree to adhere to the Entertainment Agreement. Sound will be restricted to a level which will not adversely impact neighboring and adjoining property owners, and we will strictly comply with the City and the provisions of the Sound Ordinance. We pledge our full cooperation with the Police Department and/or adjacent and adjoining property owners in this regard.

It is agreed that we will not change the format or type of business without written approval of the City Commission. This includes changing from a full-service restaurant to a bar where food service is reduced. The ratio of food sales to alcohol sales is anticipated to be 50% food and 50% alcoholic beverages.

- III. CODE COMPLIANCE:** The premises will fully comply with all applicable health, safety, building, sanitation, electrical, plumbing and fire codes as well as zoning requirements.

The Outdoor Service Areas will operate in accordance with the following provisions regulating outdoor service, including:

- a. Seating for the Outdoor Service Areas on public property will be available as permitted by City Ordinance, from April 1 – Nov. 1;
- b. We will pay fees in accordance with the City's Sidewalk Café License Agreement application.
- c. The Outdoor Service Areas will not be permanently enclosed;
- d. The fence and/or other barricades or rail surrounding the Outdoor Service Area on public property will be anchored in accordance with the Uniform Engineering Anchoring System as promulgated by the Engineering Department of the City of Plymouth;
- e. The manner in which the Outdoor Service Areas are enclosed shall be subject to prior approval and inspection by the Police and Engineering Department;
- f. The use of alcohol will be allowed in accordance with the rules of the Michigan Liquor Control Commission as weather permits;
- g. The Outdoor Service Areas will be clean free of debris of trash, and shall be cleaned at the close of each business day.

IV. PLAN OF OPERATION: It is acknowledged that under Ordinance 2003-04, the business shall be operated in accordance with an approved plan of operation. Changing the operation of the business in any manner inconsistent with the approved plan of operation is a violation of the ordinance and the rules of the Liquor Control Commission. Any change to the plan of operation must be approved by the City Commission prior to it being placed into effect on the business premises.

V. SECURITY: Security for the customer, building, and community is the first priority for the corporation, and as such, we will undertake whatever measures are necessary to maintain and supervise the expected level.

VI. ALCOHOL MANAGEMENT: The establishment will strictly obey all rules and regulations promulgated by the City of Plymouth and the State of Michigan Liquor Control Commission. There will be neither service to nor consumption of alcoholic beverages by minors at any time. No alcohol will be sold, or permitted to be sold, on a commission basis by any person.

The following policies will be enforced at the establishment:

- 1. No alcoholic beverages will be allowed on the premises, other than what is dispensed by the establishment.

2. All Staff will pay attention and be alert to observable clues displayed by an intoxicated individual such as: impaired reflexes, impaired coordination, reduced judgment and inhibitions, impaired vision, etc.
3. All staff will be alert to potential problems at their respective areas at the facility.
4. Be polite and courteous to the intoxicated individual(s). Be knowledgeable as to when to request assistance from additional facility staff.
5. Patrons who appear to be 30 years of age or younger will be asked to show proper Michigan identification. Signage will be posted at serving locations. Patrons must produce proper identification.
 - 5.1 All patrons under 21 years of age, service will be refused.
 - 5.2 Check "State Seal" and other markings. Check for damage or alterations to identification card.
 - 5.3 Do not return falsified identification cards. Call management immediately.
6. If a patron shows signs of intoxication, then refuse service, politely explain policy, suggest non-alcohol purchase, and/or call for management if necessary.
7. If a patron is purchasing on behalf of someone else who appears **less than 30 years old or younger**, then request to see identification of recipient or contact supervisory personnel whom will seek patron(s) out. Refuse service to minors. Inform all parties involved that policy allows for ejection off of premises if illegal activity has occurred.
8. Alcohol dispensing may be restricted to one of the following practices or any combination thereof:
 - No sales to intoxicated persons
 - No sales without proper identification
 - Limited alcoholic choices if necessary
 - When in doubt, do not serve, call supervisor
9. Observe all patrons leaving the property. No alcoholic beverages are allowed to leave the facility or property.
10. Approach any patron appearing to be impaired and leaving the event. Determine if they are driving. If so, attempt to persuade them not to drive and request a non-impaired companion to drive. If unable, refer patron(s) to bus or taxi service.
11. Supervisory and management personnel will complete documentation of any alcoholic related incidents at end of event. Information will be disseminated accordingly.

12. We shall provide free and/or at reduced prices non-alcoholic beverages to all designated drivers.

13. The establishment fully participates in the Techniques in Alcohol Management Program and will continue such participation in that program or a similarly recognized program approved by the Plymouth Police Chief.

VII. REFUSE DISPOSAL: We will dispose of refuse in enclosed dumpsters and comply with the City's waste management requirements.

VIII. GENERAL: Every effort will be made to maintain positive relationships with adjacent and nearby businesses as well as cooperation with all city departments. Every effort will be made to solve any problems which may arise.

IX. EMERGENCY CONTACTS:

Vince Spica, (734) 660-4958
William Farwell, (734) 453-3035

Date: _____

VWS Holdings, LLC D/B/A Penn Grill
A Michigan Limited Liability Company

By: _____

Vince Spica, Authorized Member

R E S O L U T I O N

The following Resolution was offered by _____ and seconded by _____.

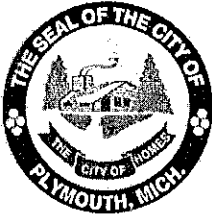
WHEREAS The City of Plymouth has a Liquor Management Ordinance which Requires licensed establishments to update their operations plans When they make changes, and

WHEREAS The Penn Grill has applied to the State of Michigan for a permanent Outdoor Service Area, to be located in the alley between the Penn Grill and what is currently, Kilwins, and

WHEREAS The Ownership of the Penn Grill has requested a stock transfer Between the current ownership, by deleting one stockholder and then Dividing equally all stock between the remaining two owners, and

WHEREAS The Local Liquor License Review Board held a meeting to review this Request and the City Commission did hold a public hearing to hear Comments from the public.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby accept the updated Operations Plan from the Penn Grill to include additional Outdoor Service Area, to be located in the alley between the Penn Grill and what is currently known as Kilwins, as well as changes in the stockholders to delete one stockholder and make adjustments to divide equally the stock between the two remaining owners.



Administrative Recommendation

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

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

To: Mayor & City Commission
From: Paul J. Sincock, City Manager
CC: S:\Manager\Sincock Files\Memorandum - Rooftop Dining Ordinance First Reading - 09-08-20.docx
Date: September 1, 2020
RE: Rooftop Seating Ordinance Amendment – First Reading

Background

The City Commission established that they wanted the Rooftop Dining Ordinance revised as a part of the City's Strategic Plan for 2020. The Administration has been working with the Planning Commission on this issue and over the course of three months they have reviewed, revised, and recommended changes to the City Commission.

There are currently no Rooftop Dining operations in the City. The Planning Commission review dealt with several issues related to rooftop dining, including, but not limited to; allowed use zoning area, parking, and hours of operations.

We have attached a memorandum from Community Development Director John Buzuvis which will provide additional background on this matter.

Recommendation

This would be a first reading of the proposed amendments to the Rooftop Dining Ordinance. The City Planning Commission has held a Public Hearing on this matter and has recommended the changes to the City Commission.

We have attached a proposed Resolution for the City Commission to consider regarding this matter. Should you have any questions in advance of the meeting please feel free to contact either John Buzuvis or myself.

ADMINISTRATIVE RECOMMENDATION

To: Paul Sincock, City Manager
From: John Buzuvis, Community Development Director *JWB*
Cc: S:\Community Development\PLANNING COMMISSION\2020\Rooftop Seating\AugustPCMeeting
Date: August 31, 2020
Re: Rooftop Seating Ordinance Amendments-First Reading

BACKGROUND: As you are aware the City Commission included reviewing and amending the Rooftop Dining Ordinance as part of their 2020 Strategic Action Plan. The Planning Commission reviewed draft amendments of this ordinance at the June, and July meetings and held a Public Hearing at their August meeting. At the conclusion of the Public Hearing the Planning Commission approved the language with some minor modifications and recommends review and approval by the City Commission.

The existing Rooftop Dining ordinance was adopted in 2014 and as of this writing we do not have any operating rooftop dining establishments within the B-2 (Central Business) zoning district. However, Bigalora/Arbor Brewing contemplated as part of their initial remodel of the former Box Bar to add a rooftop dining option. In fact, they received Historic District Commission approval for the rooftop dining plans even though they were not, per the current ordinance, allowed to have both rooftop dining and a sidewalk café. The revisions proposed to the ordinance language allow a restaurant operator to have both a sidewalk café and a rooftop dining area.

Many aspects and details of the current rooftop dining ordinance and the proposed language are the same. The most significant aspects of the proposed language are below:

- ❖ Operators are permitted to have a rooftop dining area and a sidewalk café
- ❖ Rooftop dining is only permitted within the B-2 (Central Business) Zoning District (downtown)
- ❖ Rooftop dining operations are subject a Special Land Use Permits issued by the City Commission
- ❖ The rooftop seating area must be an extension of the interior dining that exists on same level, or a lower level or levels of the building.

- ❖ Rooftop dining hours and months of operation align with those of the Sidewalk Café Policy
- ❖ Operators must provide 50% of the required number of parking spaces based on the square footage of the rooftop dining area (on-site, payment-in-lieu-of)
- ❖ Rooftop dining areas shall be no bigger than 50% of the gross floor area of the interior restaurant area

Enclosed for your review is the current Rooftop Dining ordinance language, the proposed Rooftop Dining Ordinance language, and the draft meeting minutes from the August Planning Commission meeting.

The City Attorney has reviewed the enclosed language and is comfortable with it as written. The City Commission is required to complete two readings of the proposed ordinance language and approved the language at each prior to it becoming effective.

RECOMMENDATION:

The administration recommends that the City Commission complete a First Reading of the proposed Rooftop Dining language amendments and approve the same at the conclusion of that reading. A sample resolution is attached for reference.

Please feel free to contact me directly if you have any questions.

DRAFT PUBLIC HEARING MEETING MINUTES

the September 9 Planning Commission meeting.

There were no citizen comments.

There was a roll call vote.

Yes: Sisolak, Joy, Kehoe, Offerman, Saraswat, Silvers

Abstain: Hawthorne

MOTION PASSED 6-0

b. Amendment to Zoning Ordinance Section 78-297: Rooftop Dining Ordinance

The public hearing opened at 7:23 p.m.

Ellen Elliott, 404 Irvin, asked that the Planning Commission include adequate parking requirements in the ordinance.

The public hearing closed at 7:24 p.m.

Commission members discussed parking and their desire to support struggling businesses and musicians, while limiting potential disruption to nearby businesses and residents. There was a discussion about the current noise ordinance as it relates to music, and commissioners recommended that the music prohibition in the current wording should be removed and that acoustic music should be allowed. The group also discussed hours of operation and agreed that they should be consistent with the Café and Patio Outdoor Seating Ordinance.

Silvers offered the following resolution, which was seconded by Offerman.

The Planning Commission recommends that the City Commission adopt the Rooftop Seating Ordinance as written, with the following additions:

- The existing noise ordinance shall apply to rooftop dining
- Any live music will be limited to acoustic instruments and voices, and to Thursday, Friday and Saturday. The definition of acoustic music (that which is not amplified electronically) should be added.
- Hours of operation will align with the existing Café and Patio Outdoor Seating Ordinance
- Sections 78-297 (j) and 78-297 (k) shall be combined in order to have uniform requirements for both temporary and permanent structures.

There was a roll call vote.

Yes: Sisolak, Hawthorne, Joy, Kehoe, Offerman, Saraswat, Silvers

MOTION PASSED 6-0

7. OLD BUSINESS

There was no old business.

Proposed Rooftop Dining Ordinance Amendments 2020

Sec. 78-21. Definitions.

Acoustic music means music that is solely or primarily uses instruments that produce sound through acoustic means, as opposed to electric or electronic means.

Outdoor dining patio means a temporary, street level, exterior area, adjacent to an existing restaurant, generally located in the right-of-way, that is used for seated consumption of food and/or beverages that is operated by the adjacent restaurant and is accessory to the restaurant use.

Rooftop dining means a temporary, exterior area, located on the roof of an existing restaurant at least one story above grade, that is used for seated consumption of food and/or beverages and is operated by the underlying restaurant and is accessory to the restaurant use.

Sec. 78-102. B-2 Central Business Districts (4)

Rooftop dining subject to section 78-297.

Sec. 78-281. Special uses.

(b)(1)

Sec. 78-297. – Rooftop dining.

Rooftop dining is subject to the following:

- (a) Rooftop dining requires a special land use permit which is to be approved and issued by the City of Plymouth City Commission. This permit is subject to annual review by the City Commission. Permits for establishments serving alcohol shall be reviewed at the same time the establishment's liquor license is reviewed by the Local Liquor License Review Committee. A recommendation for the approval, renewal, renewal with conditions, denial, or postponement of action on the permit will be then forwarded to the City Commission by the Liquor License Review Committee. When this permit applies to restaurants not serving alcohol the annual review of the permit will be reviewed by the City Commission who shall take one of the following actions: approve, approve with conditions, renew, renew with conditions, deny, or postpone. This review will take place annually at the same time the City Commission conducts the annual liquor license review process. The city may revoke the special land use permit authorizing rooftop dining in accordance with the proceedings of subsection 78-281(g).
- (b) The rooftop seating area must be an extension of the interior dining that exists on same level, or a lower level or levels of the building.
- (c) No part of the rooftop dining operation shall exceed the height allowed in Section 78-190 (height overlay district).

Proposed Rooftop Dining Ordinance Amendments 2020

- (d) The open sides of the dining area must be enclosed by a wall, parapet, and/or fence that shall be 42 inches in height. In addition, a kick-plate/guard that allows for the passage of roof water for drainage while preventing dropped items from falling off the roof onto the area below shall be installed. Required kick-plate guards shall not have openings which allow passage of a sphere four (4) inches (102mm) in diameter from the walking surface to the required kick-plate/guard height of six inches.
- (e) A restaurant may have a rooftop dining area and an outdoor dining patio.
- (f) Rooftop dining area may operate between April 1 and November 1 and may be used only during operation hours of the applying establishment. Rooftop dining areas shall be allowed to begin service at 10:00 A.M. daily and service shall be permitted to continue until 11:00 p.m., Sunday through Wednesday and be closed and clear at 11:30 p.m. Establishments shall be allowed to continue service until 12:00 a.m. (midnight) on Thursday, Friday, and Saturday and be closed and clear at 12:30 a.m.
- (g) Live acoustic music on the rooftop dining area is allowed on Thursday, Friday and Saturday between April 1st and November 1st annually. Any music played through speakers on the rooftop dining area must be sound proofed so as to prevent sound from being heard at the street level of the building with the rooftop seating area and surrounding area.
- (h) The design, operation, and use of the rooftop dining area must be approved by and certified with a seal by a qualified, licensed structural engineer and that individual must certify that the rooftop is capable of the live load to be utilized by the establishment and the design of the load.
- (i) The rooftop dining area must comply with all city codes and ordinances, as well as all applicable state and federal laws. Its seating shall be limited to the space on the approved plans, and in no case more the 50% of the existing gross floor area of the restaurant, and in accordance with the capacity limits established by the fire department. No permanent components of the rooftop dining operation shall be visible from grade between November 1st and March 31st annually. Flooring, decking and other similar non-visible components are permitted to remain during this time period provided they are not visible from grade.
- (j) Temporary roof structures, walls, pergolas lighting or other components and structures associated with the rooftop dining operation shall be removed on or before November 1st annually unless permitted in (j)
- (k) Any establishment that develops rooftop dining must provide 50% of the off-street parking required by section 78-270 (10)(a).
- (l) Access to the rooftop dining area shall be through the interior of the restaurant. An exterior access may be allowed only as an emergency access for fire and life safety purposes.

Proposed Rooftop Dining Ordinance Amendments 2020

- (m) No televisions/monitors/screens shall be visible from the street level. No noise from televisions/monitors/screens shall be able to be heard at the street level.
- (n) Rooftop dining lighting shall be directed away from adjoining properties and streets and designed to minimize glare.
- (o) Any modifications to the plans submitted by the establishment for rooftop dining and approved by the city commission must be approved by the city commission before the same is made.

(Ord. No. 2014-02, § 3, 1-6-14)

Current Rooftop Dining Ordinance

Sec. 78-297. - Rooftop seating at establishments serving alcohol.

Rooftop seating at establishments serving alcohol is subject to the following:

- (a) Rooftop seating requires a special land use permit which is to be approved and issued by the City of Plymouth City Commission. This permit is subject to annual review and must be approved on an annual basis at the same time the establishment's liquor license is approved by the local liquor license review committee. The city may revoke the special land use permit permitting rooftop seating in accordance with the proceedings of subsection 78-281(g).
- (b) The rooftop seating area must be an extension of the interior dining that exists on the same floor or level of the building.
- (c) The rooftop seating area shall not be higher than the second floor of the structure.
- (d) The open sides of the dining area must be enclosed by a wall and/or fence that shall be at a minimum 42 inches high. In addition, a kick-plate/guard that allows for the passage of roof water for drainage while preventing dropped items from falling off the roof onto the area below shall be installed. Required kick-plate guards shall not have openings which allow passage of a sphere four (4) inches (102mm) in diameter from the walking surface to the required kick-plate/guard height of six inches.
- (e) No establishment shall be eligible for a rooftop seating area if that establishment is located in a building that would qualify for and/or be able to have a street level outdoor patio.
- (f) The second floor of the rooftop seating area may not open for use before 10:00 a.m. and must close by 11:00 p.m. Sunday through Wednesday and must close by 12:00 a.m. on Thursday, Friday, and Saturday.
- (g) Live music on the rooftop seating area or any part of the rooftop of any building is prohibited. Any music played on the rooftop seating area must be sound-proofed so as to prevent sound from being heard at the street level of the building with the rooftop seating area and surrounding area.
- (h) The design, operation, and use of the rooftop seating area must be approved by and certified with a seal by a qualified, licensed structural engineer and that individual must certify that the rooftop is capable of the live load to be utilized by the establishment and the design of the load.
- (i) The rooftop patio seating area must comply with all city codes and ordinances, as well as all applicable state and federal laws. Its seating shall be limited to the space on the approved plans and in accordance with the capacity limits established by the fire department.
- (j) Any establishment that has been approved for rooftop dining may only use plastic or paper drinking vessels for its outside service.
- (k) Any establishment that qualifies for and wishes to have rooftop seating must comply with all requirements of the City parking ordinance for the zoning district in which the establishment is located.
- (l) There shall be a minimum of two staff members assigned to the rooftop seating area during all hours of operation at all times.
- (m) There must be restrooms located on the second floor.
- (n) No televisions/monitors/screens shall be visible from the street level. No noise from televisions/monitors/screens shall be able to be heard at the street level.
- (o) Any modifications to the plans submitted by the establishment for rooftop dining and approved by the city commission must be approved by the city commission before the same is made.
- (p) The same dining menu which is available for patrons using the inside of the restaurant must also be available to patrons using the rooftop dining area.

Sample Resolution

The following resolution was proposed by Commissioner _____ and Seconded by Commissioner _____.

WHEREAS The City Commission of the City of Plymouth included reviewing and amending the Rooftop Dining ordinance as an action item of the City's 2020 Strategic Plan, and

WHEREAS The City of Plymouth Planning Commission has reviewed and amended the Rooftop Seating ordinance per the City Commission's request, and

WHEREAS The City of Plymouth Planning Commission has held a public hearing on August 12, 2020 to take public comment on the amended language, and

NOW THEREFORE BE IT RESOLVED THAT The City of Plymouth City Commission approves the enclosed amended Zoning Ordinance amendments for Sections 78- 21 Definitions, and 78-102 B-2 Central Business District, 789-281 Special Uses, and Sec 78-297 Rooftop Dining

NOW THEREFORE BE IT FURTHER RESOLVED THAT The City of Plymouth City Commission schedules the Second and final Reading of the proposed ordinance amendments for their next regularly scheduled meeting



Administrative Recommendation

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

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

To: Mayor & City Commission
From: Paul J. Sincock, City Manager
CC: S:\Manager\Sincock Files\Memorandum - Authorization to Hire DMS 09-08-20.docx
Date: August 20, 2020
RE: Authorization to Hire - DMS

Background

The City has received a notice from a full time DMS employee who has indicated that he is going to be retiring at the end of October. We have reviewed our staffing with Chris Porman based on our delivery of a multitude of services and we feel that this is a critical part of our staffing levels. You will recall that the City Commission adopted the Employment Ordinance on August 7, 2000 and it requires that the City Manager seek advance and express approval prior to filling any full time position.

Having full time staff on board to respond on a 24/7 basis to all types emergency and routine call outs is critical. The Municipal Services staff are truly First Responders, who must work in concert with our Public Safety Operations to allow everyone to do their job efficiently. Our Municipal Services Union has been extremely accommodating in allowing us to supplement our limited road crew with part time staff where it makes economic sense to use lower paid, lower skilled workers. However, the part timers are not trained or qualified to operate a significant portion of our equipment which is needed for the day to day and emergency operations. In addition, we need to work around school schedules for our part time staff and they are not available on a 24/7 hour call in basis. Each position we have provides critical service delivery levels and any shortage of a position, either full time or part time results in difficulty in our ability to provide routine services.

It should be noted that in 2003 we had 16 Full Time Road Crew at DMS, today we have 6 positions.

RECOMMENDATION:

The City Administration recommends that the City Commission provide advance and express approval of the hiring of one full time Department of Municipal Employee. This recommendation is based on our review of staffing and our service delivery mission.

We have attached a proposed Resolution for the City Commission to consider regarding this matter.

Should you have any questions in advance of the meeting please feel free to contact either Chris Porman or myself.

RESOLUTION

The following Resolution was offered by Comm. _____ and seconded by Comm. _____.

WHEREAS The City Commission did enact an Employment Ordinance on August 7, 2000, which Requires that the City Administration seek prior and express approval of any Hiring of a full-time position in the City, and

WHEREAS There is a budgeted full time opening in the Department of Municipal Services and the critical needs of the Department require a replacement for this position, and

WHEREAS The City Administration has requested prior and express approval of a hiring of a Department of Municipal Services employee.

NOW THEREFORE BE IT RESOLVED THAT the City Commission does hereby authorize the prior and express approval of the hiring of one full time Maintenance employee for the Department of Municipal Services to replace a position that is currently being vacated.



Administrative Recommendation

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

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

To: Mayor & City Commission
From: Paul J. Sincock, City Manager
CC: S:\Manager\Sincock Files\Memorandum - Noise Ordinance 1st Reading 09-08-20.docx
Date: September 2, 2020
RE: Noise Ordinance Amendments

Background

The City staff has been responding to several "noise complaints" this summer. We think that this is due in part to the lockdown and more people working from home. The City Administration regularly reviews Ordinances to ensure compliance with best practices and current legal decisions. The last time we updated the Noise Ordinance was in 2011.

The biggest change in our proposal is that the resident who is making the complaint can now sign the complaint and take the matter to court. Under the current Ordinance the police officer must observe and witness the noise violation in order to issue a citation and often times by the time the resident calls, the officer is dispatched and arrives at the scene the issue is over and there is nothing the Police Officer can do. This change will allow the resident to be the complainant and follow through on the matter.


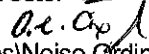
The City Attorney has reviewed the proposed Ordinance and is comfortable with it as it is proposed.

Recommendation

The City Administration recommends that the City Commission adopt the Noise Ordinance Amendments at its First Reading. These changes are updating the Ordinance to make it easier for the resident to file a noise complaint. It should be noted that this will not address noise that is generated from the freeways, railroads or more recently airplanes and helicopters.

We have attached a proposed Resolution for the City Commission to consider regarding this matter. Should you have any questions in advance of the meeting please feel free to contact Al Cox, John Buzuvis, or myself.

ADMINISTRATIVE RECOMMENDATION

To: Paul Sincock, City Manager
From: John Buzuvis, Community Development Director 
Al Cox, Police Chief/Director of Public Safety 
Cc: S:\Community Development\John\Ordinances\Noise Ordinance
Date: September 1, 2020
Re: Noise Ordinance Amendments-First Reading

BACKGROUND: As a normal course of business the administration regularly reviews ordinances for compliance with current best practices, applicability, and being up to date with current legal decisions and precedents. As such the administration has reviewed the Noise Ordinance and is recommending a handful of amendments to enhance enforceability and responsiveness to noise complaints.

The Noise Ordinance Sec. 34-86 through Sec. 34-100 was last updated in 2011. Since that time technology and lifestyles have changed significantly. Now with more residents working from home reports of Noise Ordinance violations have become more of a regular occurrence over the past several years. The current noise ordinance considers noise violations from both vehicles, and stationary items as a civil infraction which requires a Police Officer to observe/witness the noise violation in order issue a citation. The most significant amendment to the ordinance language is violations, other than those of car radios, will be considered a Misdemeanor offense. Classification as a misdemeanor offense provides flexibility for enforcement and allow the person making the report of excessive noise to sign a complaint on which a police officer may issue a violation without the officer witnessing violation themselves. Additionally, fines for violations of the ordinance have been updated.

The Noise Ordinance is contained in the City's General Ordinance section and does not fall within the Zoning Ordinance. Prior to 2011 the Noise Ordinance relied on decibel levels and was amended based on case law to establish a distance from the source of the "noise" as opposed to a decibel level.

Enclosed is a copy of the current Noise Ordinance inclusive of the proposed amendments to the language. Please note that violations for excessive noise from a car radio will remain a Civil Infraction as it is in the current ordinance.

The City Attorney has reviewed the enclosed language and is comfortable with it as written. The City Commission is required to complete two readings, one of which will be a Public Hearing, of the proposed ordinance language and approve, and publish the amended language prior to it becoming effective.

RECOMMENDATION:

The administration recommends that the City Commission complete a First Reading of the proposed amendments to the Noise Ordinance Sec. 34-86 through 34-100 and approve the same. The administration further recommends the City Commission schedule a Public Hearing and a Second Reading of the amended ordinance language for the next regular City Commission meeting. A sample resolution is attached for reference.

Please feel free to contact Chief Cox or I directly if you have any questions.

CURRENT LANGUAGE WITH PROPOSED AMENDMENTS

Proposed Amendments to the Noise Ordinance 2020

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DIVISION 3. - NOISE ORDINANCE⁽¹⁾

Footnotes:

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Editor's note— Ord. No. 2011-01, adopted Jan. 17, 2011, amended former Div. 3, §§ 34-86—34-97, in its entirety. Former Div. 3 pertained to similar subject matter and derived from Ord. No. 98-1, § 1, 5-4-98; Ord. No. 2000-03, 7-17-00.

Sec. 34-86. - Scope.

Excessive sound and vibration are serious hazards to the public health, welfare safety and quality of life. A substantial body of science and technology exists by which excessive sound and vibration may be substantially abated. The people of Plymouth have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health, welfare or safety or degrade their quality of life. It is the policy of the City of Plymouth to prevent excessive stationary sound and vibration which may jeopardize the health, welfare or safety of its residents or degrade the quality of life. This division shall apply to the control of all stationary sound and vibration originating in the city. This division is not designed to impede any person's First Amendment rights of freedom of speech. This division is not designed to impede the growth or economic health of the commercial or industrial sectors of the city. This division is designed to prohibit excessive sound and vibrations that are hazards to the public health, welfare, safety and quality of life only.

(Ord. No. 2011-01, 1-17-11)

Sec. 34-87. - Applicability.

The provisions of this division apply to all sources of sound except:

- (1) Aircraft in flight or in operation at an airport;
- (2) Railroad equipment in operation on railroad rights-of-way.

(Ord. No. 2011-01, 1-17-11)

Sec. 34-88. - Purpose.

It shall be unlawful for any person to create, assist in creating, permit, continue, or permit the continuance of any excessive, unnecessary, or unusually loud noise, or any noise which annoys or disturbs a reasonable person of normal sensitivities as described herein, or which injures, or endangers the comfort, repose, health, peace, or safety of others within the city.

(Ord. No. 2011-01, 1-17-11)

Sec. 34-89. - Definitions.

The following acts, among others are declared to be loud, disturbing, injurious, and unnecessary and unlawful noises in violation of this section, but this enumeration shall not be deemed to be exclusive. Each such act which either continues or is repeated more than one-half hour beyond its inception shall be considered to be and may be prosecuted as multiple separate violations of this division:

- (1) *Excessive or unreasonable noise.* Any sound that is plainly audible for a distance of more than 75 feet from the source. If the sound source under investigation is a sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music may be sufficient to constitute excessive or unreasonable noise.
- (2) *Plainly audible.* Any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The noise enforcement officer need not determine the title, specific words, or the artist performing the song.
- (3) *Horns and signal devices.* The sounding of any horn or signal device on any automobile, motorcycle, bus, street car or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or to give warning of intent to get under motion, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- (4) *Radio, electronic sound producing devices and musical instruments.* The playing of any radio, television, compact disk player, tape player, MP3 player, musical instrument, or amplified music or sounds in such a manner or with such volume, at any time or place, so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence, or of any person in the vicinity. The operation of any such musical instruments or electronic sound producing device in such a manner as to be plainly audible for a distance of more than 75 feet from the source shall be prima facie evidence of a violation of this section.
- (5) *Loud vehicles.* The operation of any automobile, truck, motorcycle or other vehicle so out of repair or so loaded or constructed as to cause loud and unnecessary grating, grinding, rattling or other unreasonable noise, including the noise resulting from exhaust, which plainly audible at a distance of 50 feet from the vehicle and unreasonably disturbing to the quiet, comfort or repose of other persons. The modification or elimination of any noise abatement device on any motor vehicle or engine or the failure to maintain the same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle as originally manufactured.
- (6) *Hawking.* The hawking of goods, merchandise or newspapers in a loud and boisterous manner.
- (7) *Whistle or siren.* The blowing of any whistle or siren, except to give notice of the time to begin or stop work or as a warning of fire or danger.
- (8) *Engine exhaust.* The discharge into the open air of the exhaust of any steam engine, or stationary internal combustion engine or motor vehicle, except through a muffler or other device which effectively prevents loud or explosive noises.
- (9) *Construction noises.* The erection (including excavating), demolition, alteration or repair of any building, or the excavation of streets and highways, other than between the hours of 7:00 a.m. and 8:00 p.m., unless a permit therefore is first obtained from the building department.
- (10) *Devices to attract attention.* The use of any drum, loud speaker, amplifier, or other instrument or device for the purpose of attracting attention for any purpose.
- (11) *Places of public entertainment.* Except as otherwise permitted by the city commission as hereinafter, prescribed, the use, operation or permitting the use or operation of any radio or receiving set, musical instrument, phonograph, CD player, MP3 player, amplifier or other machine or device designed for the production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of others in the vicinity, or with a volume louder than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which the device is operated and who are voluntary listeners. The operation of any of the above-named devices between the hours of 11:00 p.m. and 2:00 a.m., or in such a manner that the noise is plainly audible at a distance of 75 feet from the source of the noise will

be prima facie evidence of a violation of this subsection. The operation of any of the above named devices between the hours of 2:00 a.m. and 7:00 a.m. is prohibited and a violation of this subsection.

(Ord. No. 2011-01, 1-17-11)

Sec. 34-90. - Exceptions.

None of the prohibitions herein shall apply to or be enforced against:

- (1) *Emergency vehicles.* Any authorized police, fire or emergency medical vehicle while engaged in emergency activities.
- (2) *Highway and utility maintenance and construction.* Necessary excavations or repairs of bridges, streets or highways by or any public utility installation by or on behalf of the city, county, county road commission, or any public utility or agency of the state, during the night or on Sunday, when the public safety, welfare and convenience necessitates the performance of the work at such time.
- (3) *Public address.* The reasonable use of stationary amplifiers or loud speakers for public addresses which are non-commercial in character or for business or commercial purposes so long as they do not unreasonably disturb persons on adjacent noncommercial property.
- (4) *City approved activities.* City approved or sponsored events, parades, festivals or fairs.
- (5) Athletic, musical, or cultural activities or events (including practices and rehearsals) conducted by or under the auspices of public or private schools.
- (6) Noise and sounds created through the normal course of business by industrial operations that are operating legally within the area(s) of the City zoned for such operations and/or previously approved by the City

(Ord. No. 2011-01, 1-17-11)

Sec. 34-91. - Liability of owner, lessee, or occupant.

If the person responsible for an activity which violates this division cannot be determined, the owner, lessee or occupant of the property on which the activity is located shall be deemed responsible for the violation. A person found responsible under this division shall be guilty of a ~~civil infraction-misdemeanor~~ punishable by a fine of \$150.00 to \$500.00 plus costs. For a second offense within a two-year period, the fine shall be ~~\$100~~300.00 to \$500.00 plus costs. For third and subsequent offenses within a two-year period, the fine shall be ~~\$200.00 to~~ \$500.00 plus costs.

(Ord. No. 2011-01, 1-17-11)

Sec. 34-92. - Electronically amplified sound systems in vehicles.

No person operating or in control of a parked or moving vehicle, including motorcycles and mopeds, shall operate or permit the operation of an electronically amplified sound system in or on the vehicle so as to produce sound that is plainly audible more than 50 feet from the vehicle, except when a specific permit is first granted by the city commission. The term plainly audible shall mean any sound that can be detected by a person using his or her unaided hearing faculties.

(Ord. No. 2011-01, 1-17-11)

Sec. 34-93. - Violations and fine schedule.

Any person who shall violate subsection 34-92, except when a specific permit is first granted by the City Commission or when one of the exceptions enumerated in section 34-90 shall be found to apply, shall be guilty of a civil infraction. The fine schedule for violations of section 34-92 occurring within one calendar year will be as follows:

First offense~~\$70.00~~150

Second offense~~100.00~~\$300

Third and subsequent offense~~200.00~~\$500

Fourth offense and subsequent violations~~500.00~~

(Ord. No. 2011-01, 1-17-11)

Secs. 34-94—34-100. - Reserved.

Sample Resolution

The following resolution was proposed by Commissioner _____ and Seconded by Commissioner _____.

- WHEREAS The City Administration through the normal course of business reviews ordinances for enforceability, applicability and adherence to current best practices, and
- WHEREAS The City Administration is recommending amendments to the Noise Ordinance Sec. 34-86 through Sec. 34-100, and
- WHEREAS The City of Plymouth City Commission has completed a First Reading of the proposed amendments, and
- WHEREAS The Ordinance Amendments require two readings and a public hearing before being published and becoming effective,

NOW THEREFORE BE IT RESOLVED THAT The City of Plymouth City Commission approves the enclosed amended Zoning Ordinance amendments, at the conclusion of the First Reading, for Noise Ordinance Sec. 34-86 through 34-100, Definitions, and 78-102

NOW THEREFORE BE IT FURTHER RESOLVED THAT The City of Plymouth City Commission directs the administration to schedule a Public Hearing and Second and final reading of the proposed ordinance amendments for their next regularly scheduled meeting



Administrative Recommendation

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

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

To: Mayor & City Commission
From: Paul J. Sincock, City Manager
CC: S:\Manager\Sincock Files\Memorandum - PASER Street Report on conditions Authorization 09-08-20.docx
Date: September 3, 2020
RE: PASER Road Rating Report Authorization

Background

The City Commission will recall that we used the 2017 PASER road condition report as the basis for the 2019 voter approved bond issue. This report should be updated every few years and the last time we did this was in 2017. We use the PASER Report to determine which streets are going to be paved in the next round of paving and we are beginning to plan for the 2021 program. The Southeast Michigan Council of Governments (SEMCOG) has offered grant opportunities for communities to partially fund PASER studies.

Because the possible grant funding is available, we would like to move this project forward and obtain City Commission approval for the study. With the approval in hand we will be able to apply to SEMCOG for the grant. With or without partial grant funding this would be funded normally from the City's Streets Funds that are sent to the City from the State.

We had our City Engineer prepare a proposal for us. You will recall that the PASER study requires that every street in the city be driven and rated in accordance with the Roadsoft GIS. The proposal is for a total cost of \$7,000 and we would like to get this completed prior to the winter season.

Recommendation

The City Administration recommends that the City Commission authorize a 2020 PASER street study in the amount of \$7,000 to be completed by Wade Trim. Funding for this project would be from the Major and Local Street Funds as well as a potential grant from SEMCOG.

We have attached a proposed Resolution for the City Commission to consider regarding this matter. Should you have any questions in advance of the meeting please feel free to contact either Chris Porman or myself.



Wade Trim Associates, Inc.
25251 Northline Road • Taylor, MI 48180
734.947.9700 • www.wadetrim.com

September 3, 2020

City of Plymouth
201 S. Main St.
Plymouth, MI 48170

Attention: Mr. Chris Porman, Department of Public Services

Re: 2020 PASER Roads Ratings
Proposal for Engineering Services

Dear Mr. Porman:

The Michigan Legislature enacted Act 199 of PA 2007. The Act encourages the asset management process by requiring a plan and also rewarding communities by offering greater flexibility in the use of Act 51 funds. Development of the plan enables the City to document existing conditions and establish a long-term plan for maintaining the road infrastructure.

Act 199 requires the City of Plymouth to report to the Transportation Asset Management Council (TAMC) the mileage and condition of their respective road system by the end of November each year. For the mileage and condition reporting, data collection must be consistent with the Pavement Surface Evaluation and Rating (PASER) system.

We propose to provide the following Professional Engineering services:

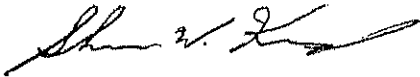
1. Use RoadSoft GIS to collect and store the data we collect.
 - a. Wade Trim currently has on file the latest version of RoadSoft GIS from the Local Technical Assistance Program (LTAP); this version will be utilized for the data collection.
 - b. Wade Trim will provide a link to the City whereby the latest version of the software is made available, free of charge, for the City's use.
2. Using a two-person team, we will drive the City streets using the laptop data collector and perform a pavement surface evaluation on all roads under the jurisdiction of the City.
 - a. Data collected will be limited to PASER surface rating for concrete and asphalt roads.
 - b. No lane closures are needed to perform data collection.
 - c. Wade Trim will provide the GPS equipment, laptop and properly lighted vehicle used to perform the data collection.

3. Export shapefile from RoadSoft and submit (i.e., electronically upload) the data to South East Michigan Council of Governments (SEMCOG), satisfying the City's reporting requirements. All data collection must be completed by the end of November.
4. Provide reference maps to summarize the data collected and the overall condition of the City streets, along with a comparison to the previous data collected in 2017.

We propose to provide these services, as outlined above, for a lump-sum fee of \$7,000. Since it is nearly the fall season already, we anticipate data collection to begin immediately in September upon receiving authorization to proceed. Please feel free to contact our office if you have any questions or require further information regarding this Proposal.

Very truly yours,

Wade Trim Associates, Inc.



Shawn W. Keough, PE

SWK:BAF:ka
PLY 2111-02T
Plymouth 2020 PASER Rating Ltr.docx

RESOLUTION

The following Resolution was offered by _____ and seconded by

WHEREAS The City of Plymouth maintains a street system of major and local streets, and Those assets need to be evaluated from time to time in order to determine the Status and conditions of those streets, and

WHEREAS The evaluation system is known as a PASER Report and this report is used to Make determinations on the next set of street repairs and renewals, and

WHEREAS the last time the city has a PASER report completed was in 2017 and the PASER report Is used to make determinations for future road paving and improvement programs.

NOW THEREFORE BE IT RESOLVED THAT the City Commission of the City of Plymouth does hereby authorize City Engineer Wade Trim to complete the 2020 PASER Report in an amount of \$7,000 in accordance with their September 3, 2020 proposal. Funding for this project shall come from the Major and Local Street Funds and any possible grant funds for this project.

ZBA Liaison Report for Sept 8, 2020
Commissioner Ed Krol

a) Z20-06 Non-Use Variance Request for 359 McKinley
Rear yard setback
Zoned: R-1, Single-Family Residential
Applicant: Donna MacDonald
Request for variance: Approved
Vote: 3 to 0

b) Z20-07 Non-Use Variance Request for 1381 Sheridan
Roof connecting home and detached garage
Zoned: R-1, Single-Family Residential
Applicant: John Corsi
Request for variance: deferred until next ZBA meeting