

## PLANNED UNIT DEVELOPMENT AGREEMENT

This Planned Unit Development Agreement is made on JULY 8, 2005, by and between **HOWELL-WAL, L.L.C.**, a Michigan limited liability company, whose address is 2640 Golden Gate Parkway, Suite 102, Naples, Florida 34105 (the "Owner") and the **TOWNSHIP OF GENOA**, a Michigan municipal corporation, whose address is 2911 Dorr Road, Brighton, Michigan 48116 (the "Township").

### RECITALS:

A. Owner is the owner of certain real property located in the Township of Genoa, Livingston County, Michigan, which is more particularly described on Exhibit "A" attached hereto incorporated herein by reference (the "Property").

B. On MARCH 7, 2005, the Township Board at a properly noticed public hearing, and in accordance with the current Zoning Ordinance of the Township (the "Zoning Ordinance") rezoned the Property as a Redevelopment Planned Unit Development Zoning District (the "PUD").

C. At a properly noticed public hearing held on APRIL 25, 2005, the Planning Commission, having reviewed the Conceptual PUD Site Plan prepared by Rogvoy Architects dated October 25, 2004, a copy of which is attached hereto as Exhibit "B" (the "PUD Plan" or the "Site Plan") and the Impact Statement prepared by Wade-Trim dated DECEMBER 31, 2004, a copy of which is attached hereto as Exhibit "C" ("Impact Assessment"), approved Owner's PUD Plan as Final in accordance with the applicable provisions of the Zoning Ordinance.

D. At a properly noticed public hearing held on MAY 16, 2005, the Township Board, having reviewed the PUD Plan and the Impact Assessment, approved the Owner's PUD Plan as Final in accordance with the applicable provisions of the Zoning Ordinance.

E. The Township Planning Commission and Township Board, in strict compliance with the Zoning Ordinance and with Act 184 of the Michigan Public Acts of 1943, as amended, have reclassified the Property as a Redevelopment Planned Unit Development District, finding that such classification properly achieved the purposes of Article 10 of the Genoa Township Zoning Ordinance, as amended, including the encouragement of innovation in land use, the promotion of efficient provision of public services and utilities, and additional roadway improvements to mitigate traffic impact and the elimination of an existing blighted and non-conforming site. Further, the Township Planning Commission and Township Board find the

Redevelopment Planned Unit Development District and the PUD adopted Grand River Avenue Corridor Plan and Master Plan.

F. The Township has found and concluded that the uses, plans and conditions shown on the approved PUD Plan are reasonable, health, safety and welfare of the Township; are consistent with the plans of the Township and consistent with surrounding uses of land; and will allow the redeveloping nonconforming site with the use of creative design to address unique site constraints.

G. The Zoning Ordinance requires the execution of this Planned Unit Development Agreement, which Agreement shall be binding upon the Owner and Township.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Owner and the Township agree as follows:

## ARTICLE I

### General Terms of Agreement

1.1 The Township and Owner acknowledge and represent that the foregoing recitals are true and accurate and binding on the respective parties.

1.2 The Township acknowledges and represents that this Agreement may be relied upon for future land use and development of the Property by Owner and Owner's successors, assigns and transferees.

1.3 The PUD Plan is hereby approved, having been duly approved by the Township in accordance with all applicable Township ordinances, and depicts the land uses which will be permitted and which may be developed on the Property. All formal actions necessary or expedient to carry out this Agreement shall be taken by the parties without undue delay.

1.4 Except as specifically provided for in this Agreement, the final site plan will comply with applicable Zoning Ordinance requirements. Changes to the PUD Plan or this Agreement shall be processed as set forth in the Ordinance.

1.5 The PUD Plan which is approved hereby includes the final approval of all of the following:

- (i) The Property description provided in Exhibit "A" attached hereto;
- (ii) The PUD Plan attached as Exhibit "B" hereto;
- (iii) The Impact Assessment attached as Exhibit "C" hereto; and
- (iv) The uses authorized for the development and described in Exhibit "D" attached hereto.

1.6 The approval of the PUD Plan described herein, and the terms, provisions and conditions of this Agreement, are and shall be deemed to be of benefit to the land described on Exhibit "A" and shall run with and bind such land, and shall bind and inure to the benefit of the successors, assigns and transferees of the parties hereto.

## ARTICLE II

### Land Use Authorization

2.1 The Planned Unit Development is an overlay of the General Commercial zoning district (GCD) and shall include a land use authorization for use as a drug store or so-called prescription pharmacy and all typical and ancillary uses related thereto.

2.2 Owner shall determine the timing and order of development. Site plan and other review requirements shall not be subject to any subsequent enactments or amendments of the Zoning Ordinance which are inconsistent with this Agreement, unless the Site Plan as set forth herein is materially altered at the request of Owner or its successors and assigns.

2.3 A minimum of twenty five percent (25%) of the Property shall be open space as defined in the Zoning Ordinance. Such open space shall be dispersed throughout the Property such that the overall site approved for development contains approximately twenty five percent (25%) open space. Open space is defined as undisturbed areas of key natural features, detention ponds, landscaped areas, plazas and the like. Detention areas shall comprise not more than fifty percent (50%) of the required open space. Any woodlands in setback areas will be preserved to the extent practical.

2.4 Nothing whatsoever provided in this Agreement shall be construed so as to prevent Owner from seeking major and/or minor changes to the PUD Plan in accordance with the applicable provisions of the Zoning Ordinance.

2.5 For purposes of setbacks, it is agreed that the Property has three (3) front yards. The set back from Grand River Avenue shall be a minimum of twelve feet (12'), the set back from Golf Club Road shall be a minimum of seventy feet (70'), and the set back from Maple Drive shall be a minimum of fifty-two feet (52'). The rear and side yard setbacks shall each be a minimum of ten feet (10'). The parking lot setback from Grand River Avenue and Golf Club Road shall each be a minimum of twenty feet (20') and the parking lot setback from Maple Drive shall be a minimum of eight feet (8').

2.6 Any violation of the terms of this Agreement shall be a violation of the Zoning Ordinance. The remedies of Township for a violation shall be such remedies as are provided by and for a violation of the Zoning Ordinance. Nothing contained herein shall in any way diminish and rights Owner may have at law or in equity with respect to a breach of this Agreement by Township.

## ARTICLE III

### Transportation Improvements

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3.1 Interior drives shall provide circulation around the building. Stacking or queuing depth at site access points shall be sufficient to accommodate expected peak hour volumes to minimize conflict with inbound or internal circulation. Owner will resurface Maple Drive west from the site entrance to Golf Club Road, with approval from the private road owner(s). Maple Drive shall not be used by Owner, or its tenants or permittees, for through traffic.

## ARTICLE IV

### Drainage

4.1 The drainage system on the Property shall be designed to be coordinated throughout the Property and shall be subject to Township review and approval.

## ARTICLE V

### Site Improvements

5.1 The site improvements shall be coordinated throughout the Property, with the objective of creating site improvements that are integrated and mutually supportive among the development, including the utilities and landscaping.

5.2 The architecture, building materials, colors and shapes of the building shall be in substantial conformity with the guidelines set forth in the Grand River Avenue Corridor Plan. It is the intention of the parties to promote and encourage a development that incorporates varying building lines, natural earth tone construction materials and other elements contemplated to upgrade the appearance of the development overall in the interest of making it aesthetically pleasing. Large walls shall include varying building lines, setbacks, color accents, windows or other elements to upgrade appearance. The building shall utilize quality architecture with variable building lines and architectural accents. Brick facades or brick face panels or other natural materials (i.e., brick, stone, decorative block, etc.) shall be used for the building faces. Two drive-thru windows shall be permitted at the Property, to be used only for the receipt and dispensing of prescription pharmaceuticals.

5.3 The landscaping within the PUD shall demonstrate consistency in terms of design and materials. Generally, site lighting shall be a uniform type and color. Tree removal is authorized throughout the Property.

5.4 All signs shall be permitted as shown on the Site Plan or as otherwise authorized in the Zoning Ordinance. Any permitted sign shall have a base constructed of materials that coordinate with and are consistent with the building. The two building signs shown on the site plan will be permitted, one on Grand River Avenue and one on Golf Club Road, each being not more than one hundred square feet. No window signs shall be permitted. A monument sign shall be permitted and must be consistent with the Zoning Ordinance.

## ARTICLE VI

### Utilities

6.1 Development shall be undertaken with underground electrical service to the buildings on the Property. Public utility lines in existing or future easements shall be permitted overhead so long as the buildings are serviced from underground.

6.2 **[All of the Property is located within the water special assessment district. The building must connect to the community water system.]**

6.3 The building shall be connected to and served by public sanitary sewer. The Township represents that there has been reserved for Owner adequate municipal wastewater treatment capacity to service the approved use of the Property, and the adequacy of wastewater treatment capacity shall not limit the type of use or density of the development.

6.4 Neither floor drains nor water softener backwash drains shall be connected to the sanitary sewer system. To protect the ground water and safe drinking water, all water softeners shall utilize a potassium based regenerant.

## ARTICLE VII

### Miscellaneous Provisions

7.1 The article headings contained in this Agreement have been inserted only as a matter of convenience and for reference and in no way shall be construed to define, limit, or describe the scope or intent of any provision of this Agreement.

7.2 This Agreement may not be amended or revoked at any time except by a written agreement executed by all of the parties to this Agreement.

7.3 The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

7.4 Reference in this Agreement to activities by Owner in relation to development is intended to include Owner's successors, assigns and transferees, unless context dictates to the contrary.

7.5 The undersigned parties acknowledge that the conditions imposed upon the development of the Property are reasonable conditions necessary to ensure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of and, and to promote the use of land in a socially and economically desirable manner. Further, it is acknowledged that the conditions meet all of the requirements of MSA 5.2963(16d)(2)(a), (b) and (c).

7.6 The signers of this Agreement warrant and represent that they have the authority to sign this Agreement on behalf of their respective principals and the authority to bind each party to this Agreement according to its terms. Further, each of the parties represents that the execution of this Agreement has been duly authorized and is binding on such party.

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7.7 Whenever the consent or approval of either of the parties hereto or their agencies, commissions, departments, representatives or successors is required, such consent or approval shall not be unreasonably delayed, conditioned or withheld.

7.8 Notwithstanding the foregoing, Owner, for itself and its successors and assigns, retains the right at any time prior to the commencement of construction of the improvements contemplated by the Site Plan to terminate the PUD.

7.9 This Agreement may be executed in counterparts, each of which shall constitute an original although not fully executed, but all of which when taken together, shall constitute but one document. The signature page(s) of any counterpart may be detached from a counterpart without impairing the legal effect of the signature(s) thereon and attached to any other counterpart identical thereto except for the signature page(s) attached to it.

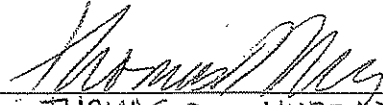
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THE PARTIES have executed this Planned Unit Development Agreement on the dates set below their names, to be effective on the date listed on the first page of this Agreement.

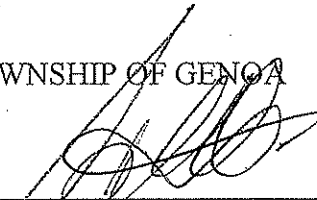
HOWELL-WAL, L.L.C.,  
a Michigan limited liability company

Dated: July 7, 2005

By:   
THOMAS D. MURRAY  
Its: MEMBER

TOWNSHIP OF GENOA

Dated: JULY 8, 2005

By:   
GARY T. MCCORRIE  
Its: SUPERVISOR

Prepared By:  
Joel M. Krugel, Esq.  
Honigman Miller Schwartz and Cohn LLP  
38500 Woodward Avenue, Suite 100  
Bloomfield Hills, Michigan 48304  
OAKLAND.690249.5

Subscribed and sworn before me, this 8<sup>th</sup>  
day of JULY, 2005, a Notary Public  
in and for LIVINGSTON County,  
Michigan.

  
(Signature) Kelly Kolakowski  
NOTARY PUBLIC

My Commission Expires 3-8, 2006

# Exhibit "A"

GRAND RIVER AVENUE (BR-1-96)

N07°31'42"W  
35.28'

GOLF CLUB ROAD

N46°30'53"E

176.90'

NE CORNER  
LOT 1

EAST R/W LINE OF  
GOLF CLUB ROAD

LOT 1

SOUTH R/W LINE OF  
MAPLE DRIVE

P.O.B.

MAPLE DRIVE

N'LY RIGHT-OF-WAY OF GRAND RIVER AVENUE

411.44'

S63°52'46"E 117.40'

LOT 2

△ 30°22'51"  
R=440.80'  
L=233.85'  
C.B.=S69°05'38"E  
CH. DIST.=231.12'

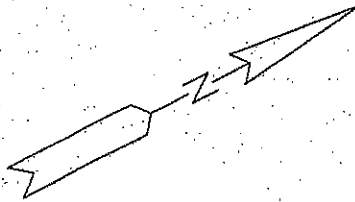
PROPOSED  
WELL  
14.60 FT

LOT 3

S28°30'00"W 135.50'

S05°42'29"W 82.69'

LOT 4



60' 30' 0' 30' 60' 120'



SCALE: 1" = 60'



**Wade-Trim**

3933 Monitor Road  
Boy City, MI 48706  
989.686.3100/800.322.4500  
FAX: 989.686.4329  
www.wadetrim.com

Scale: 1" = 60'

Date: 03/16/05

Job #: ROG2004.01B

Surveyed By:

Book #: IN

PG. #: FILE

Checked By: MM

Drawn By: PAN

Sheet: 1 of 2



Exhibit "A-1"

**WALGREEN'S LEGAL DESCRIPTION:**

LOTS 1, 2, 3, AND PART OF 4, EXCEPT THAT PART TAKEN FOR I-96 (GRAND RIVER AVENUE), HILLCREST VIEW SUBDIVISION, SECTION 6, T2N, R5E, GENOA TOWNSHIP, LIVINGSTON COUNTY, MICHIGAN, AS RECORDED IN LIBER 3 ON PAGE 6 OF PLATS, LIVINGSTON COUNTY RECORDS. BEING MORE PARTICULARLY DESCRIBED AS:

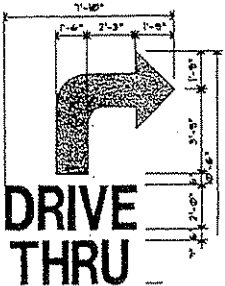
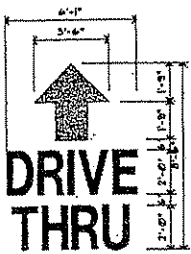
BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 1 OF SAID HILLCREST VIEW SUBDIVISION; THENCE S 53°52'46" E 117.40 FEET (M) (RECORDED AS: S 53°30' E 117.4) ALONG THE SOUTH RIGHT-OF-WAY LINE OF MAPLE DRIVE; THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTHEASTERLY 233.85 FEET ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 440.80 FEET (M & R), CENTRAL ANGLE 30°22'51", AND A CHORD BEARING S 69°05'38" E 231.12 FEET; THENCE S 05°42'29" W 82.69 FEET; THENCE S 28°30'00" W 135.50 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF GRAND RIVER AVENUE (PLATTED AS: GRAND RIVER ROAD); THENCE N 61°30'00" W 411.44 FEET ALONG SAID NORTH RIGHT-OF-WAY LINE; THENCE N 07°31'42" W 35.28 FEET TO THE EAST RIGHT-OF-WAY LINE OF GOLF CLUB ROAD AND THE WESTERLY LINE OF SAID LOT 1; THENCE N 46°30'53" E 176.90 FEET ALONG SAID EAST RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING. CONTAINING 1.74 ACRES MORE OR LESS.

**Wade-Trim**

3933 Monitor Road  
Bay City, MI 48708  
989.686.3100/800.322.4500  
FAX: 989.686.4329  
www.wadetrिम.com

Scale: N/A Date: 03/16/05  
Job #: ROG2004.01B Surveyed By:  
Book #: IN PG. #: FILE Checked By: MM  
Drawn By: PAN Sheet: 2 of 2





GENOA TWP.  
MICHIGAN

PROPOSED  
**Walgreens**  
STORE #0810

Project

REVISION	DATE
REVISION	28 MAR 03
REVISION	1 NOV 02
REVISION	1 NOV 02
REVISION	2 DEC 02
REVISION	28 JAN 03
REVISION	9 JUL 04
REVISION	1 SEPT 04
REVISION	1 OCT 04
CONCEPTUAL PLAN	28 OCT 04
REVISION	15 DEC 04
CONCEPTUAL PLAN	21 DEC 04
REVISION	8 JAN 05
REVISION	8 FEB 05
REVISION	3 MAR 05
REVISION	8 MAY 05

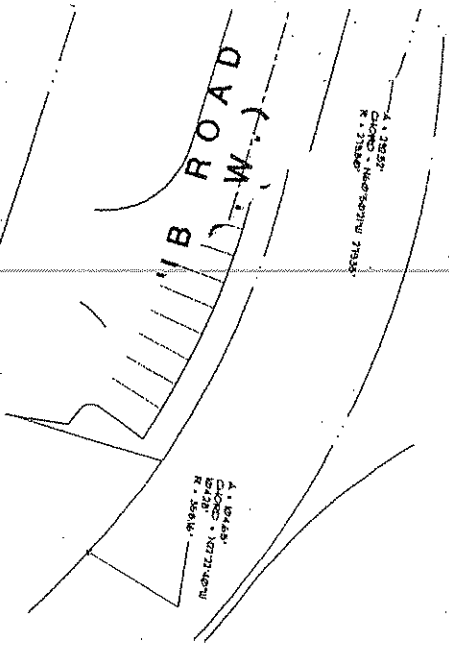


Exhibit "C"

**Impact Assessment**

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December 31, 2004

Prepared By:

Wade-Trim, Inc.  
3933 Monitor Road  
Bay City, MI 48706  
Phone: 989.686.3100

Statement of Qualifications:

Wade-Trim is a consulting engineering firm with combined resources of over 450 employees operating out of 11 offices in Michigan, Ohio, Florida, and Pennsylvania. We have provided services to all levels of government and private industry since 1926. General engineering disciplines at Wade-Trim include water resources, hydraulics/hydrology, structural, civil, transportation, industrial, mechanical, electrical, survey, planning, environmental, and landscape architecture. Wade-Trim's staff includes 76 Civil Engineers, 13 Planners, 5 Landscape Architects, 40 Transportation Engineers, along with over 350 specialized and technical staff.

Description:

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The site is located at the northeast corner of Grand River Avenue and Golf Club Road. The site currently has a multi-tenant building with associated parking and a fenced playground area. The site is bordered by Grand River Avenue (BR 1-96) on the south, Golf Club Road on the west, Maple Drive on the north, and is connected to an existing multi-tenant building to the east.

The site will not have any impact on natural features such as wildlife, woodlands, mature trees (eight-inch caliper or greater), ground water, wetlands, drainage, lakes, streams, creeks, ponds, and surface and ground water quality.

There will be no impact on the storm water management of the site. The site currently drains unrestricted to an existing 18-inch storm sewer in Maple Drive and an existing catch basin in Golf Club Road. The proposed development will provide storm water detention for any additional impervious surface if required.

The site development will not have any impact on the surrounding land use. The project site is currently zoned OCD – General Commercial and currently has commercial use. The property to the east, south, and west are currently zoned commercial or have commercial use. The property to the north is zoned SR – Suburban Residential.

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There will be no additional impact of public facilities. There will be a maximum of ten employees and average 25 patrons per hour for an estimate of 375 per day. There is no anticipated impact on public schools, recreation facilities, police protection, fire protection, and emergency services.

Public water is available through a 12-inch water main located in Grand River Avenue. The sanitary sewer will be served by an existing 8-inch public sewer main located in Maple Drive. The site's parking lot storm water drainage will be collected through two trench drains and two catch basins. The building roof runoff will be collected underground along the northeast side of the building. All canopies will be collected underground and discharge to the public storm sewer. All existing storm sewer structures that currently handle the onsite flows will remain in place until the drainage structures are constructed. The Contractor will install proper soil erosion control measures to eliminate or reduce sediment discharge. Other utilities serving the site include electric, gas, and telephone. All solid waste will be collected along the northeast side of the building and be collected by an approved disposal company.

There will be no hazardous materials stored onsite and no underground storage facilities.

The proposed traffic impact for the new development will not exceed the existing development. The average weekday has approximately 1,307 trips per day.

The existing structure will be demolished and does not appear to have any historic significance on a local, regional, or state level.

The drive thru facility will be for receipt and dispensing of pharmaceutical prescriptions only.

The proposed store will be open 24 hours.

The dust control measures will be provided.

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**Exhibit "D"**

**Authorized Use for the Development**

24-Hour Pharmacy with double-lane drive thru and canopy or other  
Commercial Retail.

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