

**Weber Conditional Zoning Statement of Conditions  
(2857 Packard Road)**

This Conditional Zoning Statement of Conditions (“Statement of Conditions”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of Ann Arbor (“City”), a Michigan municipal corporation, with offices located at 301 E. Huron, Ann Arbor, Michigan 48107, and Peters Building Company (“Developer”), a \_\_\_\_\_ corporation, with principal address at 172 S. Industrial Drive, P.O. Box 577, Saline, Michigan 48176.

**Recitals**

- A. The Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) allows for conditional zoning of land when the City is amending its zoning map, or a conditional zoning when the city is zoning property in MCL 125.3405.
- B. The City of Ann Arbor recognizes that there are certain instances where it would be in the best interest of the City, as well as advantageous to the Developer, that certain conditions could be proposed as part of a request for rezoning or a request for an amendment to the zoning map.
- C. On June 27, 2016, Developer applied for an amendment to the zoning map for certain land in the City of Ann Arbor area planned as Weber Property as more fully described on the attached **Exhibit A** (the “Property”).
- D. On September 7, 2016 the Planning Commission, after public hearing, recommended approval of zoning of the Property to R1E (Single-Family Dwelling District). The Developer also submitted an Area Plan showing the conceptual use and site design of the property.

- E. Subsequently, the Developer voluntarily offered in writing conditions regarding the use and development of the land to be incorporated into the zoning of the Property.
- F. On \_\_\_\_\_, the City approved the conditional rezoning subject to this Statement of Conditions.
- G. Based on the specific facts and circumstances regarding this property, the City has decided to accept the Developer's offer of conditional zoning.
- H. By executing this Statement of Conditions, the City and the Developer desire to set forth and confirm the conditions under which the City granted conditional zoning of this Property.

NOW, THEREFORE, Developer and City agree:

- 1. Conditions Running with the Property. This Statement of Conditions covers the Property described in the attached Exhibit A. The Statement of Conditions is incorporated into the zoning of the Property and shall be binding upon and inure to the benefit of the Developer and the City, and their heirs, successors and assigns, and shall run with the Property.
- 2. Area Plan. The conditional zoning was granted by the City based, in part, by the Developer's stated proposed use of the Property as a residential, single-family development.
- 3. List of Conditions. The conditional zoning was granted to the Developer based on conditions that were voluntarily offered by the Developer. The conditions which form the basis of the City's grant of the conditional zoning are as follows:
  - i. The Property shall have a maximum of 52 dwelling units with a minimum of 4 distinct base model homes, which includes two 2-story models, one 1.5-story model and one 1-story ranch style model. The 2-story models shall have varying elevations and the same model and elevation shall not be built next to each other. The dwelling units shall be of varying exterior colors with no two adjacent houses facing a street being the same color.
  - ii. A minimum of five 1-story ranch style houses shall be constructed around the perimeter of the development, along the west, north, and east boundaries of the property.
  - iii. Attached garages shall not project further than 12 feet out from the front of each house or 6 feet from the porch.

- iv A 15-foot wide landscape buffer along the perimeter of the Property shall be provided in order to screen any development from adjacent residences.
4. Applicable Time Period / Rezoning. If all of the conditions are not satisfied by \_\_\_\_\_, 2017 (with the exception of completion of construction), then in accordance with MCL 125.3405(2) the Property shall revert to its former zoning classification, which is R1C – Single-Family Residential District.
  5. Developer Acknowledgment. Developer acknowledges that it voluntarily offered and consented to the provisions contained in this Statement of Conditions. Developer agrees that the conditions contained herein are fair, reasonable and equitable requirements and conditions; agrees that the Statement of Conditions does not constitute a taking of property for any purpose or a violation of any constitutional right; and agrees to be bound by each and every provision of this Statement of Conditions. Furthermore, it is agreed and acknowledged that any improvements and undertakings described herein are necessary and roughly proportional to the burden imposed by the conditional zoning, and are necessary to insure capability with adjacent and surrounding uses of land; to promote use of the Property in a socially and economically manner; and to achieve other legitimate objectives of the City authorized by law.
  6. Authority to Execute. This Statement of Conditions has been authorized by all necessary action of Developer, and Developer acknowledges that it is the owner of the Property or has been authorized by the owner to conditionally zone this Property. Furthermore, the signatory for Developer acknowledges that he is authorized to enter and execute this Statement of Conditions on behalf of Developer, and bind the Developer to its terms.
  7. City Approval. The Statement of Conditions and the City’s approval of these conditions is based on the particular facts and circumstances presented, as well as the surrounding land uses and other characteristics regarding this property, and approval of these conditions for this Property may not be relied on as precedent by any other property owner seeking a conditional zoning.
  8. Obligation to Obtain Other Approvals. Developer acknowledges that any use or development approved by this conditional zoning that may require a special land use permit, a variance, or site plan approval under the terms of the Ann Arbor City Code, may only be commenced if such special land use permit, variance, and/or site plan approval is ultimately granted in accordance with the terms of the Ann Arbor City Code.
  9. Amendment. This Statement of Conditions may only be amended in the same manner as prescribed for a rezoning of property under the terms of Ann Arbor City Code.

10. Compliance with Statement of Conditions. Developer shall continuously operate and maintain the development and/or use of the Property in full compliance with all of the conditions set forth in this Statement of Conditions. Any failure to comply fully with the conditions contained with the Statement of Conditions shall constitute a violation of the Zoning Ordinance of Ann Arbor City Code, and shall be punished accordingly. Any such violation shall be deemed a nuisance per se and subject to judicial abatement, or any other remedy as provided by law.
  
11. Rezoning. Developer acknowledges that nothing in this Statement of Conditions shall prohibit the City from exercising its right to rezone the property at any time as allowed by law. The City acknowledges that nothing in this Statement of Conditions shall prohibit the Developer to request a rezoning of the Property at any time, or to continue an existing nonconforming use as allowed by law if the Property is rezoned by the City.

IN WITNESS WHEREOF, the parties have caused this Conditional Zoning Statement of Conditions to be executed on the day and year recited above.

WITNESSES:

CITY OF ANN ARBOR  
a Michigan municipal corporation

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
By: \_\_\_\_\_

WITNESSES:

DEVELOPER

\_\_\_\_\_

By: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF MICHIGAN )  
 ) ss  
COUNTY OF WASHTENAW )

The foregoing Agreement was acknowledged before me by Christopher Taylor and Jacqueline Beaudry, the Mayor and City Clerk respectively of the City of Ann Arbor on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public

My Commission Expires:\_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF MICHIGAN            )  
  ) ss  
COUNTY OF WASHTENAW    )

The foregoing Agreement was acknowledged before me by \_\_\_\_\_, of Peters Building Company, on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public

My Commission Expires:\_\_\_\_\_

\_\_\_\_\_

**Exhibit A**

COM AT THE S 1/4 OF SEC 3, T3S, R6E; TH N 89 DEG 47' 30" E 594 FT IN S LINE OF SEC FOR POB; TH N 0 DEG 51' 30" E 853.56 FT; TH N 89 DEG 56' 30" E 407.13 FT; TH S 0 DEG 56' W TO S LINE OF SAID SEC; TH S 89 DEG 47' 30" E IN S LINE OF SEC TO POB, BEING PART OF W 1/2 OF THE SE 1/4 OF SEC 3, T3S, R6E, 7.9 ACRES +-