

Conditional Zoning Statement of Conditions

This Conditional April 25 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 St., Ann Arbor, Michigan 48107, and Mirafzali Family, LLC (“Owner”), a Michigan limited liability company, with principal address at 1125 Country Club Drive, Ann Arbor, Michigan 48105.

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 Owner, 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 April 25, 2014, Owner applied for an amendment to the zoning map for certain land in the City of Ann Arbor site planned as 2250 Ann Arbor Saline Road as more fully described on the attached Exhibit A (the “Property”).
- D. On August 3, 2016 the Planning Commission, after public hearing, recommended approval of the zoning of the Property to R4B (Multiple-Family Dwelling District). The Owner also submitted a Site Plan showing the specific proposed use and site design of the property.

- E. Subsequently, the Owner 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 Owner's offer of conditional zoning.
- H. By executing this Statement of Conditions, the City and the Owner desire to set forth and confirm the conditions under which the City granted conditional zoning of this Property.

NOW, THEREFORE, Owner 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 Owner and the City, and their heirs, successors and assigns, and shall run with the Property.
- 2. Site Plan. The conditional zoning was granted by the City based, in part, by the Owner's stated proposed use of the Property as a residential, multi-family development, as shown in the proposed Site Plan filed with the City of Ann Arbor.
- 3. List of Conditions. The conditional zoning was granted to the Owner based on conditions that were voluntarily offered by the Owner. The conditions which form the basis of the City's grant of the conditional zoning are as follows:
 - i. Petitioner shall not install any vehicle access, whether emergency access or otherwise, to connect the Property to Lambeth Drive without City Council approval.
 - ii. Petitioner shall into an agreement with the CITY and to grant an easement to the CITY for the use of up to 72% of the capacity of the storm-water management system (112,933 cubic feet of 158,870 cubic feet of the detention basin) on the Property for a regional detention basin to provide storm water detention for the surrounding area.
 - iii. The easement shall allow the CITY to construct the detention basin at any time and charge Petitioner for 28% of the construction costs in the event the CITY wishes to construct the detention basin before

Petitioner is willing and able to construct it. Petitioner agrees to permit CITY any access to the property needed to construct the detention basin if CITY elects to construct the detention basin under this paragraph.

4. Applicable Time Period / Rezoning. If all of the conditions are not satisfied by May 1, 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 Pittsfield Township – R1A. If for any reason the designation as this zoning district fails by reason of law or unavailability of the district, then the designated zoning district will be the City’s AG (Agricultural-Open Space) District, until such time that the City Council takes action to rezone the property to another zoning district.
5. Owner Acknowledgment. Owner acknowledges that it voluntarily offered and consented to the provisions contained in this Statement of Conditions. Owner 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 Owner, and Owner 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 Owner acknowledges that he is authorized to enter and execute this Statement of Conditions on behalf of Owner, and bind the Owner 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. Owner 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. Owner 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. Owner 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 Owner 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.

CITY OF ANN ARBOR
a Michigan municipal corporation

By: _____
Christopher Taylor, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Mirafzali Family, LLC

By: _____

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

The foregoing Agreement was acknowledged before me on this _____ day of _____, 2016, by Christopher Taylor and Jacqueline Beaudry, the Mayor and City Clerk respectively of the City of Ann Arbor, a Michigan municipal corporation, on behalf of said corporation.

_____, Notary Public
Acting in the County of Washtenaw
My Commission Expires: _____

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

The foregoing Agreement was acknowledged before me this _____ day of _____, 2016, by _____, of Mirafzali Family, LLC, a Michigan limited liability company, on behalf of said company.

_____, Notary Public
Acting in the County of Washtenaw
My Commission Expires: _____

Exhibit A

Commencing at the Northwest corner of Section 5, T3S, R6E; thence Easterly along the North line of Section 5, 984.9 feet; thence deflecting $90^{\circ}53'$ to the right 718.12 feet to an iron pipe for the Place of Beginning; thence deflecting $79^{\circ}06'$ to the left 493.10 feet; thence deflecting $32^{\circ}12'$ to the right 394.72 feet to the centerline of Saline Road; thence deflecting 90° to the right 264.28 feet along the centerline of the Saline Road; thence deflecting 90° to the right 195.82 feet; thence deflecting 40° to the left, 449.67 feet; thence deflecting $86^{\circ}54'$ to the right, 398.00 feet to the Place of Beginning. Except for East 60 feet along and Northwesterly of the centerline of Ann Arbor-Saline Road in the City of Ann Arbor, Washtenaw County, Michigan.