

Conditional Zoning Statement of Conditions

This Conditional Zoning Statement of Conditions (“Statement of Conditions”) is made and entered into this ____ day of _____, 2018, 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 Real Estate Development and Investment Company, Inc. (“Developer”), a Michigan corporation, with principal address at One Towne Square, Suite 1600, Southfield, Michigan, 48076.

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 of land 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, for certain conditions to be proposed as part of a request for rezoning or a request for an amendment to the zoning map.
- C. On January 23, 2018, the Developer applied for an amendment to the City zoning map for land in the City of Ann Arbor site planned as 151 E. Hoover, as more fully described on the attached **Exhibit A** (the “Property”).
- D. Included with the rezoning petition, the Developer voluntarily offered in writing conditions regarding the use and development of the land to be incorporated into the zoning of the Property.
- E. On June 19, 2018, the Planning Commission, after public hearing, recommended approval of the rezoning of the Property to C2B (Business Service District) with Conditions. The Developer also submitted a Site Plan showing the specific proposed use and site design of the property.
- F. On _____, 2018, 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. Site Plan. The conditional zoning was granted by the City based, in part, by the Developer's stated proposed use of the Property as a mixed-use apartment community development, as shown in an excerpt from the proposed Site Plan attached as **Exhibit B**.
3. List of Conditions. The conditional zoning was granted to the Developer based on a condition that was voluntarily offered by the Developer. The City and Developer agree that restrictions on the use and development of the land are necessary for consistency and conformance to the Master Plan – Future Land Use Element with regard to new development for their Property. The condition which form the basis of the City's grant of the conditional zoning are as follows:
 - A. The Property shall only be developed as the 151 E. Hoover Site Plan as approved by the Ann Arbor City Council on _____ as well as any administrative amendments to the Site Plan. The complete, approved 151 E. Hoover Site Plan and any amendments, are on file with the City of Ann Arbor.
4. Applicable Time Period / Rezoning. If this condition is not satisfied by _____, 2028, then in accordance with MCL 125.3405(2) the Property shall revert to its former zoning classifications.
5. Developer Acknowledgment. Developer acknowledges that it voluntarily offered and consented to all of 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 the Statement of 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 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 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 from requesting a rezoning of the Property at any time.

CITY OF ANN ARBOR
a Michigan municipal corporation

By: _____

By: _____

Real Estate Development and
Investment Company, Inc.
a Michigan corporation

By: _____

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2018 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 the 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 _____, 2018 by _____, of Real Estate Development and Investment Company, Inc., a Michigan corporation, on behalf of the corporation.

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

Drafted by and after recording return to:
Kevin S. McDonald (P-61761)
Senior Assistant City Attorney
City of Ann Arbor, Office of the City Attorney
P.O. Box 8647
Ann Arbor, MI 48107-8647

Exhibit A

The land referred to in this Commitment, situated in the County of Washtenaw, City of Ann Arbor, State of Michigan, is described as follows:

LEGAL DESCRIPTION OF SEVEN PARCELS (.76 ACRES) OF LAND

919 Brown St.; PARCEL 09-09-32-110-013:

The Westerly 72.25 feet of the Southerly 49.50 feet of Lot 17, BROWN AND BACH'S ADDITION TO THE CITY OF ANN ARBOR, MICHIGAN, according to the plat thereof as recorded in Liber 48 of Deeds, page 360, Washtenaw County Records.

917 Brown St.; PARCEL 09-09-32-110-012:

The South 29.00 feet of Lot 16 and the North 20.50 feet of Lot 17, BROWN AND BACH'S ADDITION TO THE CITY OF ANN ARBOR, MICHIGAN, according to the plat thereof as recorded in Liber 48 of Deeds, page 360, Washtenaw County Records.

913 Brown St.; PARCEL 09-09-32-110-010:

Lot 15, BROWN & BACHS ADDITION, CITY OF ANN ARBOR, Washtenaw County Michigan, as recorded Liber 48 of Deeds, page 360, Washtenaw County Records.

915 Brown St.; PARCEL 09-09-32-110-011:

The North 41 feet in width by the entire length of Lot 16, Brown and Bach's Addition to the City of Ann Arbor, Washtenaw County, Michigan, as recorded in Liber 48 of Deeds, page 360, Washtenaw County Records.

200 E. Davis Ave.; PARCEL 09-09-32-110-009:

The West 44 feet of Lot 14, Brown and Bach's Addition to the City of Ann Arbor, according to the recorded plat thereof, as recorded in Liber 48 of Plats, Page 360.

202 E. Davis Ave.; PARCEL 09-09-32-110-008:

The West 44 feet of the East 84 feet of Lot 14, BROWN & BACHS ADDITION TO THE CITY OF ANN ARBOR, Washtenaw County, Michigan, according to the plat thereof as recorded in Liber 48 of Deeds, page 360, Washtenaw County Records.

204 E. Davis Ave.; PARCEL 09-09-32-110-007:

East 40 feet of Lot 14, BROWN & BACHS ADDITION TO THE CITY OF ANN ARBOR as recorded in Liber 48 of Deeds, page 360, Washtenaw County Records.

Exhibit B

Excerpt From Site Plan approved by City Council