

ORDINANCE NO. ORD-24-13

First Reading: June 18, 2024
Public Hearing: July 15, 2024

Approved:
Published:
Effective:

SOUTHTOWN CONDITIONAL ZONING AMENDMENT

An Ordinance to Amend the Zoning Map, Being a Part of Section 5.10.2 of Chapter 55 of Title V of the Code of the City of Ann Arbor, (1601 S. State Street - Southtown Rezoning from C1A/R With [2023] Conditions to C1A/R With [2024] Conditions)

The City of Ann Arbor ordains:

Section 1. THE ZONING MAP, which, by Section 5.10.2 of Chapter 55 of Title V of the Code of the City of Ann Arbor is made a part of said Chapter 55, shall be so amended as to designate the zoning classification of property described as follows:

Lots 1, 2, 3, and 4, Stimson Subdivision, as recorded in Liber 5, Page 30, Washtenaw County Records, and Lots 9, 10, 19, 20 and part of Lots 8 and 18, and the vacated alley adjacent to said Lots 9, 10, 19, and 20, and the vacated alley adjacent to said parts of Lots 8 and 18, Block 3, Hamilton, Rose and Sheehan's Addition, as recorded in Liber 1, Page 24, being part of the Southwest 1/4 of Section 33, Town 2 South, Range 6 East, City of Ann Arbor, Washtenaw County, Michigan, described as: Commencing at the Southwest corner of said Lot 1 and the Point of Beginning; thence N01°17'27"W 273.32 feet along the East right-of-way line of South State Street; thence N87°04'31"E 263.92 feet along the South right-of-way line of Henry Street; thence S01°21'25"E 273.31 feet along the West right-of-way line of White Street; thence S87°04'31"W 264.23 feet along the North line of Stimson Street to the Point of Beginning. Contains 1.66 acres.

in the City of Ann Arbor, Washtenaw County, Michigan as C1A/R (Campus Business Residential) District WITH CONDITIONS, in accordance with the attached Conditional Zoning Statement of Conditions which is hereby adopted and incorporated herein.

Section 2. This ordinance shall take effect and be in force on and after ten days from legal publication.

Southtown – 1601 S State St
Conditional Zoning Statement of Conditions

This Conditional Zoning Statement of Conditions (“Statement of Conditions”) is made and entered into this ___ day of _____, 2024, 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 Southtown by 4M LLC (“Developer”), a Michigan limited liability company, with principal address at 2082 S. State Street, Ann Arbor, MI 48104.

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 November 28, 2022, the Developer applied for an amendment to the City zoning map for land in the City of Ann Arbor to be site planned as South Town, as more fully described as (the “Property”):

Lots 1, 2, 3, and 4, Stimson Subdivision, as recorded in Liber 5, Page 30, Washtenaw County Records, and Lots 9, 10, 19, 20 and part of Lots 8 and 18, and the vacated alley adjacent to said Lots 9, 10, 19, and 20, and the vacated alley adjacent to said parts of Lots 8 and 18, Block 3, Hamilton, Rose and Sheehan's Addition, as recorded in Liber 1, Page 24, being part of the Southwest 1/4 of Section 33, Town 2 South, Range 6 East, City of Ann Arbor, Washtenaw County, Michigan, described as: Commencing at the Southwest corner of said Lot 1 and the Point of Beginning; thence N01°17'27"W 273.32 feet along the East right-of-way line of South State Street; thence N87°04'31"E 263.92 feet along the South right-of-way line of Henry Street; thence S01°21'25"E 273.31 feet along the West right-of-way line of White Street; thence S87°04'31"W 264.23 feet along the North line of Stimson Street to the Point of Beginning. Contains 1.66 acres.
- D. This Conditional Zoning Statement of Conditions (“Statement of Conditions”) is made and entered into this ___ day of _____, 2024, 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 Southtown by 4M LLC (“Developer”), a Michigan limited liability company, with principal address at 2082 S. State Street, Ann Arbor, MI 48104.

- E. 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.
- F. 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.
- G. On November 28, 2022, the Developer applied for an amendment to the City zoning map for land in the City of Ann Arbor to be site planned as South Town, as more fully described above.
- H. On November 28, 2022, the Developer voluntarily offered in writing conditions regarding the use and development of the land to be incorporated into the zoning of the Property.
- I. On June 21, 2023, the Planning Commission, after public hearing, recommended approval to rezone the Property to C1A/R (Campus Business Residential District) with Conditions. The Developer also submitted a Site Plan showing the specific proposed use and site design of the property.
- J. On September 5, 2023, the Ann Arbor City Council approved rezoning the Property to C1A/R With Conditions, adopting and incorporating the South Town Conditional Zoning Statement of Conditions, as Ordinance ORD-23-24.
- K. On April 1, 2024, the Developer voluntarily offered in writing to amend a condition in the South Town Conditional Zoning Statement of Conditions, adopted and incorporated by Ordinance ORD-23-24, regarding the limitations on natural gas connections and retain all other conditions as previously offered. More specifically, the Developer offered to change the condition from “the Property shall have no natural gas connections except for emergency back-up power,” to “the Property will demonstrate continuous microgrid at 60-75% less carbon intensity (CI) than electricity incumbent DTE.”
- L. Based on the specific facts and circumstances regarding this property, the City has decided to accept the Developer’s offer of amend the conditional zoning.
- M. By executing this Statement of Conditions, the City and the Developer desire to set forth and confirm the conditions under which the City grants 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 herein. 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. List of Conditions. The conditional zoning was granted to the Developer based on conditions that were 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 Comprehensive Plan. The conditions which form the basis of the City's grant of the conditional zoning are as follows:
 - a. The maximum height limit for this Property shall be 100 feet.
 - b. The maximum number of vehicle parking spaces for residential use on the Property shall be 0.25 per dwelling unit.
 - c. The principal use of the Property shall be multiple-family residential and no more than 30% of the dwelling units may be short-term rentals.
 - d. Development on the Property shall be powered by a microgrid with continuous operation of a minimum 60% less Carbon Intensity (CI) than the franchise provider of electricity for the City. (The target for development on the Property is 75% less CI.) Developer shall provide a report to the City upon request that confirms compliance with this requirement.
3. 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 ensure 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.
4. 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 they are authorized to enter and execute this Statement of Conditions on behalf of Developer, and bind the Developer to its terms.

5. 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.
6. 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.
7. 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.
8. 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.
9. 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: _____
Christopher Taylor, Mayor

By: _____
Jackie Beaudry, City Clerk

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2024 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: _____

SOUTHTOWN BY 4M LLC,
A Michigan limited liability company

Its: _____

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

The foregoing Agreement was acknowledged before me this ____ day of _____,
2024 by _____, of _____, a _____,
on behalf of the company.

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

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