

The Garnet Conditional Zoning Statement of Conditions

This Conditional Zoning Statement of Conditions (“Statement of Conditions”) is made and entered into this ___ day of _____, 2019, 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 325 E Summit Condos, LLC (“Developer”), a Michigan limited liability company, with principal address at 324 Glenwood St., Ann Arbor, MI 48103.

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 October 24, 2018, the Developer applied for an amendment to the City zoning map for land in the City of Ann Arbor site planned as 325 E. Summit Street, as more fully described on the attached **Exhibit A** (the “Property”).
- D. On March 21, 2019, 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 _____, the Planning Commission, after public hearing, recommended approval of the rezoning of the Property to C1A (Campus Business District) with Conditions. The Developer also submitted a Site Plan showing the specific proposed use and site design of the property.
- F. On _____, the Ann Arbor City Council approved the conditional rezoning subject to the 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 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 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 residential 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 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 Master Plan – Future Land Use Element with regard to new development in the Northeast planning area. The conditions which form the basis of the City's grant of the conditional zoning and are now zoning requirements for the Property are as follows:
 - A. The height for any part of a building or structure on the Property shall be a maximum of four stories and a maximum of 65 feet and shall not exceed an altitude of 850.00 feet above sea level.
 - B. The maximum height limitations shall include architectural features such as parapet walls, railings, skylights and similar structures, but shall exclude structures such as chimneys and ventilation assemblies, mechanical equipment and screens, elevator penthouses, solar panel installations, antennae and similar structures. Excluded structures shall not extend more than the minimum height necessary to achieve their intended purpose, and shall not extend more than 20 feet above the maximum height limit.
 - C. The floor area ratio of the sum of the floor area of all principal and accessory buildings and structures on the Property divided by the Property area, expressed as a percentage, shall not exceed 199%.

D. The Property shall only be developed as The Garnet Site Plan as approved by the Ann Arbor City Council on _____, as well as any administrative amendments to the Site Plan. The complete, approved Site Plan and amended Site Plan, are on file with the City of Ann Arbor. An excerpt is attached as Exhibit B.

4. 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.
5. 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.
6. 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.
7. 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.
8. 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.

STATE OF MICHIGAN)
) ss
COUNTY OF WASHTENAW)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2019 by _____, of 325 E Summit Condo, LLC, a Michigan limited liability company, on behalf of the company.

_____, 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

LOTS 2, 4 & 6 BLK 8 MAP OF ORMSBY & PAGES ADDN

Parcel ID# _____

Exhibit B

Excerpt From Site Plan approved by City Council