

## CONDITIONAL ZONING AGREEMENT

THIS AGREEMENT is made between the City of Iowa City, Iowa, a municipal corporation (hereinafter "City"), and Plum Grove Acres, Inc., (hereinafter "Owner");

WHEREAS, Owner is the legal title holder of approximately 2.97 acres of property located at the northwest corner of First Avenue and Hickory Trail; and

WHEREAS, the Owner has requested the rezoning of said property from Low Density Single Family (RS-5) zone to Planned Development Overlay Medium Density Single Family (OPD-8) zone; and

WHEREAS, the Planning and Zoning Commission has determined that, with appropriate conditions regarding site design and building elevations, vehicular access, landscaping and common open space and amenities to serve the residents of the development, the requested OPD-8 zone is appropriate in this location to allow a townhouse-style development; and

WHEREAS, Iowa Code §414.5 (2007) provides that the City of Iowa City may impose reasonable conditions on granting an applicant's rezoning request, over and above existing regulations, in order to satisfy public needs caused by the requested change; and

WHEREAS, the Owner acknowledges that certain conditions and restrictions are reasonable to ensure the development of the property is consistent with the Comprehensive Plan and the vision for the Bluffwood Neighborhood as expressed in the Northeast District Plan; and

WHEREAS, the Owner agrees to develop this property in accordance with the terms and conditions of a Conditional Zoning Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Owner is the legal title holder of the property legally described as follows:

LOTS 39, 40, AND 41 OF FIRST AND ROCHESTER, PART ONE, IOWA CITY, IOWA, IN ACCORDANCE WITH THE PLAT THEREOF RECORDED IN BOOK 23, AT PAGE 78, IN THE RECORDS OF THE JOHNSON COUNTY RECORDER'S OFFICE, CONTAINING 2.97 ACRES, AND SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

2. The Owner acknowledges that the City wishes to ensure conformance to the principles of the Comprehensive Plan. Further, the parties acknowledge that Iowa Code §414.5 (2007) provides that the City of Iowa City may impose reasonable conditions on granting an applicant's rezoning request, over and above the existing regulations, in order to satisfy public needs caused by the requested change.
3. In consideration of the City's rezoning the subject property, Owner agrees that development of the subject property will conform to all other requirements of the zoning chapter, as well as the following conditions:

- a. Substantial compliance with the Concept Plan dated January 9, 2009, attached and incorporated herein, with regard to the layout, including the location and size of the buildings, the landscaping, and rear access drive. Any substantial deviation from the Concept Plan regarding layout, landscaping, or drive placement shall require approval by the Planning and Zoning Commission.
  - b. Substantial compliance with the building elevations submitted February 5, 2009, and the south elevation approved by the Planning and Zoning Commission, attached and incorporated herein, which demonstrate variation in façade; use of quality materials, including cement board siding and stone veneer; roofline; color; and window pattern in order to break up the mass of the buildings and ensure compatibility with the character of the surrounding neighborhood, including single-family areas within the neighborhood. Any substantial deviation from the submitted elevations shall require approval by the Planning and Zoning Commission.
  - c. Staff approval of a detailed plan for the proposed shared open space, including site design, grading, materials, and specifications showing durable and architecturally and environmentally compatible amenities, access, and landscaping. Staff's decision regarding approval the plan may be appealed to the Planning and Zoning Commission.
  - d. All landscaping (trees and shrubs) must comply with the species list provided by Johnson County Heritage Trust or similar list from the Iowa State extension.
  - e. The driveway location must meet code requirements or the applicant must secure a minor modification to allow location of the north driveway within 25 feet of the property line.
4. The Owner and City acknowledge that the conditions contained herein are reasonable conditions to impose on the land under Iowa Code §414.5 (2007), and that said conditions satisfy public needs that are caused by the requested zoning change.
  5. The Owner and City acknowledge that in the event the subject property is transferred, sold, redeveloped, or subdivided, all redevelopment will conform with the terms of this Conditional Zoning Agreement.
  6. The parties acknowledge that this Conditional Zoning Agreement shall be deemed to be a covenant running with the land and with title to the land, and shall remain in full force and effect as a covenant with title to the land, unless or until released of record by the City of Iowa City.

The parties further acknowledge that this agreement shall inure to the benefit of and bind all successors, representatives, and assigns of the parties.

7. The Owner acknowledge(s) that nothing in this Conditional Zoning Agreement shall be construed to relieve the Owner or Applicant from complying with all other applicable local, state, and federal regulations.
8. The parties agree that this Conditional Zoning Agreement shall be incorporated by reference into the ordinance rezoning the subject property, and that upon adoption and publication of the ordinance, this agreement shall be recorded in the Johnson County Recorder's Office at the Applicant's expense.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CITY OF IOWA CITY

PLUM GROVE ACRES, INC.

\_\_\_\_\_  
Regenia Bailey, Mayor

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

Attest: \_\_\_\_\_  
Marian K. Karr, City Clerk

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

Approved by: \_\_\_\_\_  
City Attorney's Office

**CITY OF IOWA CITY ACKNOWLEDGEMENT:**

STATE OF IOWA        )  
                                  ) ss:  
JOHNSON COUNTY     )

This instrument was acknowledged before me on \_\_\_\_\_, 2009, by Regenia Bailey and Marian K. Karr, who did say that they are the Mayor and City Clerk, respectively, of the City of Iowa City; that the seal affixed thereto is the seal of said municipal corporation; that said instrument was signed and sealed on behalf of said municipal corporation by authority of its City Council; and that the said Mayor and City Clerk as such officers acknowledged that the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

**PLUM GROVE ACRES, INC. ACKNOWLEDGEMENT:**

STATE OF IOWA        )  
                                  ) ss:  
JOHNSON COUNTY     )

This instrument was acknowledged before me on \_\_\_\_\_, 2009, by \_\_\_\_\_ (name), as the \_\_\_\_\_ (title) of Plum Grove Acres, Inc.

\_\_\_\_\_  
Notary Public in and for the State of Iowa