

Prepared by and return to: Matt Muckler, City Administrator/Clerk, 110 N. Poplar, West Branch, Iowa 52358 (319)643-5888

RESOLUTION NO. 1055

RESOLUTION AMENDING THE CONDITIONAL ZONING AGREEMENT BETWEEN MICHAEL L. AND SHERRI P. FURMAN AND THE CITY OF WEST BRANCH, IA FOR LOT #1 PEDERSEN VALLEY, PART ONE.

WHEREAS, Michael L. Furman (“Furman”) had originally submitted a proposed Site Plan to construct a proposed eight unit multi-family residential building on Lot #1 Pedersen Valley, Part One, West Branch, Iowa; and

WHEREAS, in connection with the first submittal, Furman executed a conditional zoning agreement (the “Agreement”), which was recorded in Book 418 at page 70, Records of the Cedar County Recorder’s Office; and

WHEREAS, Furman has submitted a revised Site Plan, and therefore, the original Agreement needs to be amended in connection with approval of the new Site Plan; and

WHEREAS, the City Attorney has drafted an amendment to the Agreement that needs to be approved by the City Council contemporaneously with the Site Plan; and

WHEREAS, said proposed Site Plan had heretofore been reviewed by City Staff, including the City Engineer; and

WHEREAS, the proposed Site Plan was found to conform to West Branch Code of Ordinances; and

WHEREAS, the proposed Site Plan was approved by the West Branch Planning and Zoning Commission at their special meeting held on Tuesday June 26, 2012; and

WHEREAS, the proposed Site Plan was approved by the West Branch City Council at their meeting held on July 16, 2012; and

WHEREAS, Furman was asked by a member of the West Branch City Council at their meeting held on July 16, 2012 to consider adding a commercial component to this development; and

WHEREAS, Furman submitted a revised site plan for a mixed-use development on this site; and

WHEREAS, the revised Site Plan has heretofore been reviewed by City Staff, including the City Engineer; and

WHEREAS, the revised Site Plan has been found to conform to West Branch Code of Ordinances; and

WHEREAS, the revised Site Plan was approved by the West Branch Planning and Zoning Commission at their meeting held on Tuesday November 27, 2012 with the following four recommendations to amend the Conditional Zoning Agreement between the City of West Branch and Michael Furman: 1) allow for nine residential units instead of eight, 2) allow for three stories instead of two, 3) clarify that a mixed-use development will be allowed, and 4) clarify that since it is a mixed-use development, a 25-foot RB-1 front setback will be allowed; and

WHEREAS, the West Branch City Council has discussed the Conditional Zoning Agreement between the City of West Branch and Michael L. and Sherri P. Furman dated February 8, 1999; and

WHEREAS, it is now necessary for the City Council to approve revisions to the Conditional Zoning Agreement in order for the revised site plan to proceed.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF WEST BRANCH, IOWA, that:

Section 1. The February 8, 1999 Conditional Zoning Agreement will be amended to allow for nine residential units instead of eight.

Section 2. The February 8, 1999 Conditional Zoning Agreement will be amended to allow for three stories instead of two.

Section 3. The February 8, 1999 Conditional Zoning Agreement will be amended to clarify that a mixed-use development will be allowed.

Section 4. The February 8, 1999 Conditional Zoning Agreement will be amended to clarify that since it is a mixed-use development, a 25-foot RB-1 front setback will be allowed.

\* \* \* \* \*

Passed and approved this 17th day of December, 2012.

Jim Oaks  
Don Kessler, Mayor PRO TEM  
JIM OAKS

ATTEST:

Matt Muckler  
Matt Muckler, City Administrator/Clerk

**EXHIBIT "A"**  
**Legal Description of Property**

Lots 2, 3 and 4 to Part One of Rummells Commercial Subdivision to West Branch, Iowa, a resubdivision of Lots 1 and 2 to Part One of Rummells Commercial Subdivision, West Branch, Cedar County, Iowa.

AND

All of the land located in the south 365.00 feet of the west 450.00 feet of the Southwest Quarter of the Southwest Quarter of Section 8, Township 79 North, Range 4 West of the 5<sup>th</sup> P.M, Cedar County, Iowa

Except the south 40 feet of the east 400 feet of said west 450 feet thereof;

And further excepting a tract of land located in the south 365.00 feet of the west 450 feet of the Southwest Quarter of the Southwest Quarter of Section, Township 79 North, Range 4 West of the 5<sup>th</sup> P.M., of Cedar County, Iowa, and being more particularly described as:

Commencing as a point of reference of the Southwest corner of said Section 8; thence North 00°34'37" West (Bearings assumed for the purposes of this description) 40 feet along the west line of said Southwest Quarter of the Southwest Quarter; thence 89°59'39" East, 50 feet to the east line of Baker Avenue (County Road X-30) to the point of beginning; thence North 00°3'37" West, 71.22 feet along said east right-of-way; thence South 30°12'11" East, 53.05 feet; thence South 55°21'47" East, 44.62 feet to the north right-of-way line of 300<sup>th</sup> Street; thence South 89°39'59" West, 62.68 along said north right-of-way to the east right-of-way line of Baker Avenue to the point of beginning.

Prepared by: Kevin D. Olson, West Branch City Attorney, PO Box 5640, Coralville, Iowa 52241 (319)351-2277  
Return to: City of West Branch, 110 Poplar, West Branch, Iowa 52358

**AMENDMENT TO THAT CERTAIN CONDITIONAL ZONING AGREEMENT  
BY AND BETWEEN THE CITY OF CORALVILLE AND MICHAEL AND SHERRI FURMAN**

REFERENCE is hereby made to that certain Conditional Zoning Agreement ("Agreement") by and between Michael L. Furman and Sherri P. Furman, (hereinafter collectively referred to as "Furman") and the City of West Branch, Iowa (hereinafter referred to as "City"), recorded in Book 418 at page 70, Records of the Cedar County Recorder.

FOR THE PARTIES' JOINT AND MUTUAL CONSIDERATION, IT IS HEREBY AGREED THAT THE AGREEMENT SHALL BE AND HEREBY IS AMENDED AS FOLLOWS:

1. That the following Amendments shall be made:
  - a. Paragraph 1 is amended to allow nine residential units, in place of eight units.
  - b. Paragraph 2 is hereby amended to allow a three-story structure in place of a two-story structure.
  - c. The Agreement is hereby further amended to allow for a mixed-use development on the Property, along with a 25-foot RB-1 front yard setback.

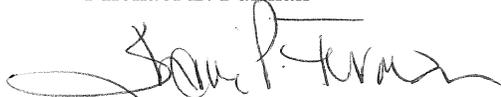
2. Except as otherwise expressly set forth to the contrary in this AMENDMENT, the terms, conditions and provisions of the Agreement remain in full force and effect, are fully binding on City and Furman, and City and Furman do hereby expressly ratify and reaffirm the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on this 31<sup>st</sup> day of December, 2012.

OWNER:

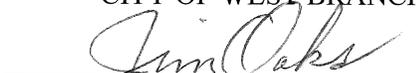


Michael L. Furman



Sherri P. Furman

CITY OF WEST BRANCH:

  
Don Kessler, Mayor *PRO TEM*  
JIM OAKS

ATTEST:

  
Matt Muckler, City Administrator/Clerk