

FINAL DEVELOPMENT CONDITIONS

CASE #R-20230003

6/1/2023

By the signature below, 7 & M Development LLC. offers the following Proffered Conditions in conjunction with Case #R-20230003 on behalf of itself or its assigns. Each proffered condition made in connection with this application for rezoning was made voluntarily and complies with applicable law. No agent of the County has suggested or demanded a proffered condition that is unreasonable under applicable law.

1. This Standard Exception and associated waivers and other approvals are granted for and run with the land indicated in this application and is not transferable to other land.
2. The development of the property will be in substantial conformance with the General Development Plan (“site plan”).
3. All residential units will be rental units, owned and managed in common ownership. Multifamily residential and senior units will remain rental units and will not be for-sale units.
4. This Standard Exception is granted only for the purpose(s), structure(s) and/or uses(s) indicated on the plans approved with this application, as permitted in PUD, and as qualified by these development conditions. Notwithstanding the foregoing, overall residential Gross Floor Area (Gross Floor Area as determined by the Building Code Official) shall not exceed 200,000 square feet within the PUD.
5. Non-residential uses will be limited to those permitted in PUD and B-1 Zoning Districts.
6. The site depicts approximately 176,556 Gross Floor Area of residential uses; 64,737 Gross Floor Area of commercial/retail uses; 14,307 Gross Floor Area of community center uses; and 1,194 Gross Floor Area of retail drive-thru uses. The site must not exceed 200,000 Gross Floor Area of residential uses; 70,000 Gross Floor Area of commercial/retail uses; 20,000 square feet of community center uses and 3,000 square feet of retail drive-thru uses.
7. The capacity of the multifamily dwelling units must not exceed an aggregate total of 180 bedrooms. Of these 180 bedrooms, there shall not be greater than 13 studios, 85 one bedroom units, and 41 two bedroom units.
8. The senior living units must be operated in compliance with these conditions and all applicable federal, state, and local laws, including 42 U.S.C. § 3601 et seq. as amended, including the Fair Housing Amendments Act of 1988 (FHAA) and the Federal Housing for Older Persons Act of 1995 (HOPA), and as implemented by HUD regulations at 24

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C.F.R part 100.300 (collectively, the FHA), and the Essex County Zoning Ordinance. In accordance with HOPA, the senior living units shall be operated for occupancy by persons 55 years of age or older. Each senior living unit shall be rented such that at least one resident in each unit is a person at least age 55 or over.

9. Services geared toward the 55+ population could include, but not be limited to, resources such as home maintenance, wellness services, educational programming, and transportation services. Housing and general care may be provided only for persons who qualify for the age-related exemptions of the Federal Fair Housing Amendments Act of 1988 (FFHA) or for persons with disabilities.
10. Upon specific request by the County Administrator, the owner or manager of the multifamily dwelling units and/or senior living units must provide a copy of any documents used to verify the occupancy qualifications of residents.
11. At least 80% of the 91 senior living units will be income restricted at up to 50 percent, 60 percent, or 80 percent AMI. The senior living units shall be leased to households which will result in an average household income of no greater than sixty percent (60%) of AMI for all of the multifamily dwelling units. The foregoing income and tenancy restrictions shall be set forth in a declaration of covenants approved by the County Attorney benefitting the County or its designee, and also approved by or consistent with the relevant state or Federal program, and recorded among the land records in the Clerk's Office of the Circuit Court of Essex County, Virginia prior to final approval of the first site plan, and shall remain in effect for a minimum of thirty (30) years from the date such covenant is first recorded.
12. At least 80% of the multifamily dwelling units will be income restricted at up to 50 percent, 60 percent, or 80 percent AMI. This will not be committed to, nor finalized, until finance closing. The multifamily dwelling units shall be leased to households which will result in an average household income of no greater than sixty percent (60%) of AMI for all of the multifamily dwelling units. The foregoing income and tenancy restrictions shall be set forth in a declaration of covenants approved by the County Attorney benefitting the County or its designee, and also approved by or ~~or~~-consistent with the relevant state or Federal program, and recorded among the land records in the Clerk's Office of the Circuit Court of Essex County, Virginia prior to final approval of the first site plan, and shall remain in effect for a minimum of thirty (30) years from the date such covenant is first recorded.
13. The residential architecture shall be designed and constructed of high quality architectural and building materials and similar in design to the perspective elevations shown on the site plan. The exterior building materials shall consist of a minimum of thirty percent (30%) brick or stone. There shall be no vinyl siding on the rear elevations of the multifamily dwelling units.

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2023

- a. Building elevations demonstrating compliance with this Proffer shall be subject to review and approval for substantial conformance by the Department of Planning and Zoning prior to the approval of the site plan or construction plans and profiles.
 - b. The residential buildings must maintain the residential character of the dwelling as shown in the application. The Applicant may change the colors and materials of the exterior finishes of the residential buildings provided the residential character of the structure is preserved.
14. The commercial architecture shall be designed and constructed of high quality architectural and building materials and similar in design to the perspective elevations shown on the plan.
 - a. Building elevations demonstrating compliance with this Proffer shall be subject to review and approval for substantial conformance by the Department of Planning and Zoning prior to the approval of the site plan or construction plans and profiles.
15. The development will provide a minimum of 395 on-street and off-street surface parking spaces for residential and non-residential uses.
16. Subject to Virginia Department of Transportation (VDOT) approval, the Applicant will install appropriate median channelization to prevent left turn movements along the main entrance at the first internal drive aisle, at the time of site plan.
17. Any private roads on the property will meet all requirements for maintenance, dimensions and other standards as a public roads.
18. The development will include a minimum of 10 percent public/recreational and open space uses.

This approval, contingent on the above noted conditions, shall not relieve the Applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

VOLUNTARY PROFFER STATEMENT

Each proffer made in connection with this application for rezoning was made voluntarily and complies with applicable law. No agent of the County has suggested or demanded a proffer that is unreasonable under applicable law.

SIGNATURES

Applicant: 7 and M Development LLC

Signature


Date: _____

Owner of Record: June C. Monterio

Signature

Date: _____

Agent: Kedrick N. Whitmore



Signature

Date: _____

Litera Comparison of Prior Proffers (5.30) and Updated Proffers (6.1.23) (updated #7) 06/01/2023; Hodges removed redlines and formatted blue double underline to black on 2 June 2023

CONDITIONS AGREEMENT

I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission.

SIGNATURES

Applicant: 7 and M Development LLC

Signature

Date: _____

Agent: Kedrick N. Whitmore



Signature

Date: _____

