

PROFFERS

SUNRISE DEVELOPMENT, INC.

June 10, 2019

Pursuant to Section 15.2-2303(a) of the *Code of Virginia*, 1950, as amended, and Section 18-249.1 of the Zoning Ordinance of the Town of Vienna, Virginia, Sunrise Development, Inc., for itself and its successors and assigns (collectively, "Applicant"), agrees that the redevelopment and use of the property that is the subject of this rezoning application and that is shown on the Fairfax County Tax Map as 38-4 ((2)) 125A (the "Subject Property") shall be in accordance with the following proffers if the rezoning is granted and the Subject Property is rezoned to the Maple Avenue Commercial ("MAC") District and an accompanying conditional use permit for an assisted living facility is approved:

1. Conformance to Concept Plan. The general character of the redevelopment of the Subject Property shall be in substantial conformance with the plan comprised of twenty-three (23) sheets prepared by Walter L. Phillips, Inc. and Rust Orling Architecture, Inc. dated September 5, 2018 and revised through May 22, 2019 (the "Concept Plan").
2. Uses of the Property. The Subject Property may be used for an assisted living facility with up to 82 units and a maximum of 108 residents. The ground floor of the building may be developed with all uses permitted in Section 18-95.4 of the Town of Vienna Zoning Ordinance, except for restaurants, and as may be approved with a conditional use permit. The Applicant reserves the right to modify the internal building layout at time of site plan provided that no more than 82 assisted living units are proposed, no more than 108 residents are proposed, and provided that the Applicant maintains 2,264 square feet of first floor area for non-assisted living commercial uses.
3. Architectural Design. The architectural design of the building on the Subject Property shall conform generally with the character and quality of the design shown on the elevations in the Concept Plan, subject to the approval of the Board of Architectural Review ("BAR") of the Town of Vienna. During the review by the BAR, the Applicant shall specifically discuss design options for the column at the corner of Center Street and Maple Avenue.
4. Public Art. The Applicant shall include public art in the pocket park after consultation with the Vienna Arts Commission. The cost of procurement, installation, and maintenance will be borne by the Applicant.
5. Vegetative Screen. The Applicant shall include a vegetative screen in the pocket park on the northeastern boundary of the Subject Property, subject to BAR approval.
6. Storm Box Culvert. As shown on the Concept Plan, the Applicant shall replace the storm box culvert in the northwest corner of the Subject Property with an approximately 12 foot by 4 foot box culvert. The final design shall be determined at time of site plan.

7. Bike Racks. The Applicant shall coordinate final bike rack selection and location with Town Staff at time of site plan approval.
8. Transportation Demand Management (TDM). The Applicant shall implement the following TDM measures:
 - A. Within 180 days of issuance of a Certificate of Occupancy, the Applicant shall designate a Transportation Management Coordinator (TMC). The TMC shall advise employees of the TDM program at least once a quarter. The TMC position may be part of other duties assigned to the individual. The TMC duties shall include the following:
 - (i) Assist employees in making effective and efficient commuting choices.
 - (ii) Disseminate Metrorail, Fairfax Connector, ridesharing, and other relevant transit options to new employees.
 - (iii) Solicit support from the Metropolitan Washington Council of Governments (MWCOC) Commuter Connections program, the Washington Metropolitan Area Transit Authority (WMATA), the Town of Vienna, and others.
 - (iv) Provide on-site assistance to employees in forming and maintaining carpools and vanpools.
 - (v) Disseminate park-and-ride lot information to prospective carpoolers and vanpoolers.
 - (vi) Encourage employees to ride bikes or walk to work.
 - (vii) Promote the TDM Program among employees through printed materials and web sites.
 - B. Subsequent to the issuance of the Certificate of Occupancy for assisted living use, the Applicant shall establish an annual budget of \$20,000 to be used toward transit incentives for employees of the assisted living facility.
9. Parking
 - A. Resident Parking Prohibited. Residents of the assisted living facility shall not be permitted to park on the Subject Property. Residents shall be informed of this prohibition in writing prior to occupying the Subject Property.
 - B. Parking Management Plan (PMP).

- (i) The Applicant shall submit a PMP and obtain the review and approval of such plan by the Director of Planning and Zoning prior to the issuance of a Certificate of Occupancy for the assisted living use. The PMP shall be developed to ensure that all parking for the uses occur on the Subject Property. The PMP will include parameters for the use of the valet spaces depicted on the Concept Plan.
- (ii) The Applicant will survey parking usage through the use of parking occupancy counts conducted on a typical weekday and a typical Sunday. The results of the parking occupancy counts will be provided in an annual report to the Town. The annual report will begin one year following issuance of the Certificate of Occupancy for the assisted living facility. An annual report will be provided for a minimum of three (3) years. After a period of three (3) years, the Applicant shall meet with the Department of Planning and Zoning to discuss whether conditions warrant continuation of an annual report. Notwithstanding the aforementioned, at any time subsequent to the issuance of the Certificate of Occupancy the Town may suspend such annual report if conditions warrant such.
- (iii) Should any of the parking surveys indicate that parking demand exceeds parking supply, the Applicant shall work with the Town Department of Planning and Zoning to modify the PMP. Modifications to the PMP may include, but not be limited to, implementing additional transportation demand management strategies, modifying the internal parking layout, and/or obtaining additional off-site parking.
- (iv) Prior to the issuance of a certificate of occupancy for assisted living use, the Applicant shall secure off-site parking to accommodate a minimum of twelve (12) spaces for a minimum of twelve (12) months and shall provide proof of such off-site parking to the Department of Planning and Zoning. Upon the conclusion of the twelve (12) month period, the Applicant shall provide parking usage information to the Department of Planning and Zoning consistent with Proffer 9.ii. If, subsequent to twelve (12) months, or anytime thereafter, the Applicant can demonstrate that all parking is accommodated on the Subject Property the Applicant shall have the option of discontinuing the off-site parking.

- 10. Successors and Assigns. These proffers shall bind and inure to the benefit of the Applicant and its successors and assigns.
- 11. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed and delivered will be deemed an original, and all of which taken together will constitute but one and the same instrument.

[SIGNATURES BEGIN ON NEXT PAGE]

APPLICANT/CONTRACT PURCHASER

TAX MAP REFERENCE 38-4 ((2)) 125A

SUNRISE DEVELOPMENT, INC.

By: _____

Its: _____

[SIGNATURES CONTINUE]

OWNER

TAX MAP REFERENCE 38-4 ((2)) 125A

KIRSCHNER ENTERPRISES, INC.

By: Linda M. Kirschner

Its: Personal Representative of the
Estate of Louis P. Kirschner

[SIGNATURES END]