



## Legislation Text

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**File #:** PCWS19-038, **Version:** 1

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**Subject:**

Proposed proffer amendment and conditional use permit for Sunrise @ 380 Maple Ave W

**BACKGROUND SUMMARY:**

Town Council voted to approve the rezoning application for a mixed-use building with ground floor retail and multifamily residential condominium units at 374-380 Maple Avenue West on June 17, 2019.

On August 19, 2019, the applicant received approval from Town Council of amendments to the approved proffers. The proposed amendments did not affect conditions of use or density and therefore the governing body had the right to waive the requirement for a public hearing for amended proffers per § 15.2-2302.

The applicant is requesting a modification to the proffers for an assisted living facility in place of the approved mixed-use building with multifamily residential.

**OVERVIEW:**

The applicant will provide a presentation explaining the proposed amendments to the approved proffers, including site plan and architectural changes.

§ 15.2-2302. Same; amendments and variations of conditions.

A. Subject to any applicable public notice or hearing requirement of subsection B but notwithstanding any other provision of law, any landowner subject to conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 may apply to the governing body for amendments to or variations of such proffered conditions provided only that written notice of such application be provided in the manner prescribed by subsection B of § 15.2-2204. Further, the approval of such an amendment or variation by the governing body shall not in itself cause the use of any other property to be determined a nonconforming use.

B. There shall be no such amendment or variation of any conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 until after a public hearing before the governing body advertised pursuant to the provisions of § 15.2-2204. However, where an amendment to such proffered conditions is requested pursuant to subsection A, and where such amendment does not affect conditions of use or density, a local governing body may waive the requirement for a public hearing (i) under this section and (ii) under any other statute, ordinance, or proffer requiring a public hearing prior to amendment of such proffered conditions.

C. Once amended pursuant to this section, the proffered conditions shall continue to be an

amendment to the zoning ordinance and may be enforced by the zoning administrator pursuant to the applicable provisions of this chapter.

D. Notwithstanding any other provision of law, no claim of any right derived from any condition proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 shall impair the right of any landowner subject to such a proffered condition to secure amendments to or variations of such proffered conditions.

E. Notwithstanding any other provision of law, the governing body may waive the written notice requirement of subsection A in order to reduce, suspend, or eliminate outstanding cash proffer payments for residential construction calculated on a per-dwelling-unit or per-home basis that have been agreed to, but unpaid, by any landowner.