

**TOWN OF HERNDON, VIRGINIA**

**ORDINANCE**

**JUNE 14, 2022**

**Ordinance-** to approve Zoning Map Amendment ZMA #21-01, 315 Elden Street, a zoning map amendment from CS, Commercial Services, to PD-UR, Planned Development Urban Residential, with proffered conditions to allow the conversion of an existing hotel to multi-family residential with a workforce housing component.

In adopting this Ordinance, the Town Council has considered the factors set out in 15.2-2284, Code of Virginia (1950) as amended.

**BE IT ORDAINED** by the Town Council of the Town of Herndon, Virginia that:

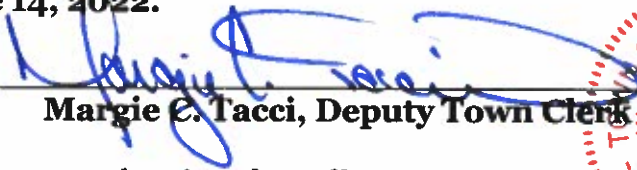
- A. The zoning of the property described below, lying in the Town of Herndon, Fairfax County, Virginia, is amended to allow residential use with zoning ordinance modifications as proposed in the Elden Street Owner, LLC/Wells & Associates/Wire Gill LLP/Bohler Generalized Development Plan dated March 2, 2022, and the Proffer Statement dated May 11, 2022 of ZMA #21-01, and in accordance with Section 78-51.1 and 78-155.1 of the Town of Herndon Zoning Ordinance.

The property is shown in the above referenced Generalized Development Plan and described in the land records of Fairfax County in Deed Book 25808 on page 1018. The Fairfax County Tax Map Number is 0171-02-0007 and the total land area is 6.394 acres.

- B. This rezoning shall be governed by this ordinance, the Town of Herndon Zoning Ordinance, the above referenced Proffer Statement for ZMA #21-01, and the above referenced Generalized Development Plan for ZMA #21-01. The Proffer Statement is included as an attachment to this ordinance. This Zoning Map Amendment is consistent with the adopted 2030 Comprehensive Plan of the Town of Herndon.
- C. The Town Council approves the following modifications to the zoning regulations, as allowed under Section 78-50.2(d):
  - i. A modification to Section 78-100.2 to allow a minimum parking requirement of 184 parking spaces.

- ii. A modification of Section 78-51.1(e) to allow a maximum front setback of 85 feet from the right-of-way and to allow a 12-foot separation distance between structures.
  - iii. A modification to Section 78-110.4(e)(3)(b) to allow a 7.5-foot buffer.
  - iv. A modification to Section 78-110.4 to allow a planting plan that is in substantial conformance with Sheet L-2 of the GDP.
- D. As to the modifications set out in item C. above, the Town Council finds that such modifications will afford equal or greater assurance of meeting the goals of the zoning ordinance, Town of Herndon, Virginia, as set out in the preamble of that ordinance.
- E. This ordinance shall be effective on and after its adoption.

**This is certified to be a true and accurate copy of Ordinance 22-O-13 adopted at a legally convened meeting of the Town Council of the Town of Herndon on June 14, 2022.**

  
Margie C. Tacci, Deputy Town Clerk



Attached for reference are the signed Proffer Statement dated May 11, 2022 and the Generalized Development Plan dated March 2, 2022.

**DRAFT PROFFERS**  
**315 Elden Street Adaptive Reuse**  
**May 11, 2022**

Pursuant to Section 15.2-2303 of the Code of Virginia (1950, as amended) and Section 78-51.1 of the Town of Herndon Zoning Ordinance, as amended (the "Zoning Ordinance"), the undersigned, for themselves and their successors and/or assigns (referred to hereafter, both collectively and, where appropriate, individually, as the "Applicant"), hereby proffers that the development (the "Development") of the parcels that are the subject of this application, which are shown on the Fairfax County 2021 Real Property Map as parcels 017-1 ((02)) 0007 (the "Property") shall be in substantial conformance with the conditions set forth below (the "Proffers") if, and only if, the rezoning of the Property to Planned Development – Urban Residential ("PD-UR") and Zoning Map Amendment # 21-01 (the "Application") are approved by the Town Council.

**1. DEVELOPMENT PLAN.**

- a. The Property shall be developed in substantial conformance with the development plan entitled General Development Plan for 315 Elden Street Adaptive Reuse prepared by Bohler dated March 02, 2022 (the "Development Plan") and these Proffers. It is understood by the Applicant that all other applicable regulations and policies governing land development within the Town of Herndon (the "Town") shall apply to the Property and its development unless specifically modified by the language of this approval.
- b. Minor modifications of the Development Plan may be permitted without the need for an amendment to this approval when necessitated by final engineering or site design provided that the development is in substantial conformance with the Development Plan, these Proffers, and as approved by the Architectural Review Board ("ARB"), if applicable. Substantial conformity shall be determined as provided in the Zoning Ordinance.

**2. PERMITTED USES.**

- a. Unless modified by an amendment to the approved Development Plan, any use or combination of uses permitted in the PD-UR Zone may be established on the Property, with the exception of retail sales, which shall not be permitted

**3. WORKFORCE HOUSING.**

**a. NUMBER OF UNITS.**

- i. The Applicant shall provide no less than 50% of the total number of residential units on the Property as dedicated Workforce Dwelling Units (WDUs). The number of WDU units will be based upon the final number of total units that the Applicant constructs on the Property, not to exceed

170 units.

- ii. The WDU units will be distributed across the Property and no fewer than 20% of any unit type will be allocated as WDUs.
- iii. The WDU will have the same level of interior finishes and access to Property amenities as the market rate units.
- iv. Units designated as WDU units may change as residents move in and out of the building or have incomes that exceed AMI limits.

**b. AFFORDABILITY.**

- i. The maximum rent allowed for the WDUs will be affordable to households earning up to 80% of Area Median Income (“AMI”). Affordable means those households spend up to 30% of their gross annual income towards rent. AMI and maximum rent for such units is established annually by the non-profit Virginia Housing for the Washington Metropolitan Statistical Area and is based on number of persons in each household.
- ii. The maximum rent allowed for the WDUs will be limited to the annual Virginia Housing AMI limits.

**c. TERM.**

- i. The WDUs in this program will be provided for 30 years beginning with the occupancy of the first WDU unit.

**d. WDU PROGRAM MANAGEMENT.**

- i. Prior to occupancy of any market rate or WDU unit, the Applicant shall enter into a written agreement (WDU Agreement) with the Town of Herndon regarding management of this WDU Proffer commitment. The WDU Agreement shall address the following to the satisfaction of the Town:
  - 1. Applicant’s process for verifying resident income and eligibility to lease WDU unit.
  - 2. Reporting requirements to Town upon lease up and, no less than annually thereafter, to verify compliance with these WDU Proffers. Reporting to include number of units leased, household size, household income and term of lease.

3. Process for periodic Town inspection of units and rental records.
4. Procedures and guidelines in the event that individuals or families already in the WDU program exceed the income limits.  
Individuals or families who initially qualify for a WDU unit and then have increase in income beyond the 80% AMI limit will have the option of staying within the same unit for one additional year at the rental rates under these Proffers. After which that unit will be reclassified as a market rate unit, and the Applicant will need to provide a replacement WDU unit within 30 days.

e. COVENANT.

- i. The Applicant shall record a covenant memorializing the Property's commitment for 50% of residential units to be set aside as Workforce Dwelling Units for a period of 30 years beginning with the occupancy of the first WDU unit.

4. ARCHITECTURE AND SITE DESIGN

- a. The final architectural treatment and exterior design of all buildings and site amenities within the Development Plan shall create a sense of identity and place through the use of unifying elements such as color, materials, and landscaping as generally reflected in the exhibits contained in the Development Plan, including Correspondence Sheet C-7.
- b. Refuse and Recycling Enclosure. The Development Plan designates a general location and general design details for a refuse and recycling enclosure as shown on Sheet C-3. The existing dumpster enclosure in the northeast quadrant of the site shall be reused to provide more proximity to refuse service for all residents. The refuse and recycling will be serviced by a private provider at a frequency that is sufficient to prevent the accumulation of refuse or recycling outside of any dumpster on the property.

5. TRANSPORTATION.

- a. Transportation Demand Management (TDM). The TDM Plan will include the below elements:
  - a. Contributions to resident Metro fare cards.
  - b. Contributions to County and WMATA bus service fare.
  - c. Carpool parking space.

- d. Rideshare drop-off area in northeast corner of site
  - e. New resident information packets regarding all of the above and additional information about transit, carpool, vanpool, and bicycle options.
- b. **Bicycles.** As shown in the GDP, the applicant shall provide (3) bike parking pads onsite, near the street frontages to provide a total of (12) bike parking spaces. In addition, the applicant shall provide a secure, weather-protected bike parking for at least (48) bikes as shown on sheet C-7, and bike parking within an existing parking space for at least (12) bike parking spaces. A bicycle repair station shall be provided for bicycle repair and maintenance. The above facilities shall be provided prior to the first certificate of occupancy.
  - c. **New Pedestrian Infrastructure.** New ADA-accessible pedestrian connections shall be constructed to access the public sidewalks along Elden Street, Grove Street, and Herndon Parkway and interior crosswalks shall be added as shown on GDP sheet C-3. The above facilities shall be provided prior to the first certificate of occupancy.
  - d. **Dedication.** Approximately 884 square feet of land abutting the existing Elden Street public right-of-way along the western portion of the property's frontage will be dedicated to the Town of Herndon at no cost to the Town. See GDP sheet C-3. The approved plat and deed of dedication shall be recorded prior to approval of the site plan.
  - e. **Bus Stop.** The Applicant shall provide a \$10,000 monetary contribution to the Town for the improvement and/or relocation of the existing bus stop along Herndon Parkway currently in front of the office property to the southeast at Tax Map #017-1 ((06)) G. The above contribution shall be provided prior to the issuance of the first certificate of occupancy.

## 6. **GREEN BUILDING.**

In furtherance of the Green Building goals of the Town, the Applicant shall provide each residential building with energy efficient light fixtures and appliances. In addition, low-flow toilets and sinks shall be provided in each residential building.

## 7. **UNIVERSAL DESIGN.**

In furtherance of the Urban Design objectives of the Planned Development - Urban Residential District, the Applicant shall provide for Universal Design features within select residential units. This includes a commitment to provide three (3) ground floor Accessible units. In addition, all public open spaces will be Accessible. Finally, all ground floor units will apply the "adaptable" concept identified by the Fair Housing Act. Some examples of "adaptable" design concepts are walls that provide framing for future grab bars in bathrooms, lever handles on doors and faucets, and electrical wall switches requiring less dexterity by users.

8. CONTRIBUTIONS.

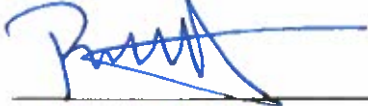
- a. Recreation/Community Amenities/Civic Facilities. The applicant shall commit to maintaining the extensive existing onsite resident amenities. These high-quality amenities will be available to all residents and include outdoor patios with seating, barbecue grills, lighting, pavers, and trash receptacles, an outdoor pool, an outdoor sport court, and other outdoor gathering areas with seating.
- b. Offsite Recreation Contribution. Prior to the issuance of the first certificate of occupancy, the Applicant must contribute a lump sum of \$350 per market-rate residential unit to the Town of Herndon for use at off-site recreational facilities within the Town.
- c. School Contribution.
  - i. Prior to the issuance of the first certificate of occupancy, the Applicant will contribute funds for (19) nineteen students. The contribution amount is \$232,978.00. This number was derived from the latest Fairfax County Public Schools Student Yield Ratio for mid/high-rise multifamily, multiplied by the total number of residential units constructed (170), multiplied by \$12,262.00 per student generated, per the Residential Development Criteria Implementation Motion adopted by the Fairfax County Board of Supervisors on January 7, 2003, as amended, to the Board of Supervisors for transfer to the Fairfax County School Board to be used for capital improvements and capacity enhancements to schools that serve the Town of Herndon. The contributions will be based on the actual number of residential units constructed, as the total amount may vary. Following approval of this Development Plan and prior to the Applicant's payment of the amount(s) set forth in this Proffer, if Fairfax County should modify the ratio of students per units of the amount of the contribution per student, the Applicant will pay the modified contribution amount to reflect the then current ratio and/or contribution for mid/high-rise residential (or equivalent).
- d. Public Safety Contribution. The Applicant shall contribute a total of \$10,000.00 to the Town of Herndon Police Department. The contribution shall be paid upon site plan approval.
- e.

9. **ESCALATION.** All monetary contributions required by these proffers, with the exception of the proffer relating to the public school contribution, shall escalate on a yearly basis from the base year of 2022 and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of Labor Statistics, the U.S. Department of Labor for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the “CPI”), as permitted by Virginia State Code Section 15.2-2303.3.3.
10. **SUCCESSORS AND ASSIGNS.** These proffers shall bind and inure to the benefit of the Applicant and his/her successors and assigns
11. **COUNTERPARTS.** These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.



ELDEN STREET OWNER LLC

Title Owner of Tax Map 017-1 ((02)) 0007

By: 

Name: Peter C. Kleeblatt

Title: Authorized Party

~~COMMONWEALTH OF~~ Washington, DC  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of May, 2022  
by Peter C. Kleeblatt as Authorized Party and on behalf of Elden Street Owner LLC

Linda Agyare Boateng

Notary Public

Notary Registration No: N/A

My Commission Expires: 6/30/2026

Linda Agyare Boateng  
Notary Public, District of Columbia  
My Commission Expires 06/30/2026

