

SPECIAL USE PERMIT CONDITIONS

Applicant: NewCastle Development Group, LLC ("The Applicant")

Owners: Jefferson Associates LP; Warrenton Center LLC

SUP 2022-05, Warrenton Village Mixed Use Center

GPINs 6985-20-7247-000; 6984-29-6753-000 (the "Property")

Special Use Permit Area: ± 29.05 acres

Zoning: Commercial (C)

Date: August 13, 2024

In approving a Special Use Permit, the Town Council may impose such conditions, safeguards, and restrictions as may be necessary to avoid, minimize, or mitigate any potentially adverse or injurious effect of such special uses upon other properties in the neighborhood, and to carry out the general purpose and intent of this Ordinance. The Council may require a guarantee or bond to ensure that compliance with the imposed conditions. All required conditions shall be set out in the documentation approving the Special Use Permit (SUP).

- 1. General:** The property shall be developed in substantial conformance with these conditions and the plans titled "Special Use Permit for Warrenton Village Center, REVISION 3 – 5/31/2024", and prepared by Bohler Engineering. Minor changes and adjustments may be made to the road and street alignments, entrances, parking, dimensions and location of SWM/BMP facilities, the exact configuration and location of building footprints, and other similar features as shown on the SUP Plan, provided they meet the intent of these Conditions and are approved by the Director of Community Development or the Zoning Administrator.
- 2. Use Parameters:** The Special Use Permit shall apply to the entire +/- 29.05 acre property. The property may be constructed with not more than 320 apartments, 32 townhomes, and 34 two over twos. The Zoning Ordinance 9-25 requires that residential uses shall not exceed 1 dwelling unit per 500 gross square feet of non-residential floor space within the mixed use development unless approved by Town Council through a Special Use Permit.
- 3. Phasing:** The Applicant has the flexibility to develop Blocks 1-3 in any order. Mixed Use development approval includes the provision for construction of public amenities. To ensure that site improvements are completed in a timely manner along with the residential buildings, Applicant agrees that the Town of Warrenton will withhold Certificates of Occupancy (COs) in accordance with the following schedule:

 - A. Block 1:** Prior to issuance of the 1st CO within Block 1, all required infrastructure improvements for Block 1 and the following amenities shall be constructed and open for public use:

 - Central Plaza
 - Dog Park and Picnic Area
 - West Plaza

- East Plaza
- Reconfiguration of commercial parking
- Preservation and reconditioning of Oak Spring (natural spring)
- Crosswalk across Oaks Springs Drive at Highland School entrance and Hastings Lane

B. Block 2: Prior to issuance of the 17th CO within Block 2, all required infrastructure improvements for Block 2 and the following amenities shall be constructed and open for public use:

- Central Plaza
- Reconfiguration of commercial parking
- Crosswalk across Oaks Springs Drive at Hastings Lane

C. Block 3: Prior to issuance of the 26th CO within Block 3, all required infrastructure improvements for Block 3 and the following amenities shall be constructed and open for public use:

- Central Plaza
- Reconfiguration of commercial parking
- Crosswalk across Oaks Springs Drive at Hastings Lane
- New sidewalk section on east side of Broadview Ave (behind Galaxy Strike Bowling Center building)

4. Architecture:

A. The final design of the buildings to be constructed shall generally conform to the elevations and materials included with the Special Use Permit application (hereinafter, the "Elevations"). The Elevations may be subject to minor modification approved by the Zoning Administrator in connection with Site Development Plan review. Additional changes to the design and materials may be made provided that any such changes are approved by the Zoning Administrator prior to the issuance of a building permit. Such approval shall be based on a determination that the changes result in equal to or better than the quality shown on the Building Elevations developed by Dynamik dated February 14, 2024 and/or May 30, 2024

B. The following materials are prohibited from use: vinyl siding, EIFS, corrugated metal siding, and plastic panels.

C. All residential buildings shall be designed and certified to a National Green Building Standard (NGBS), Level Bronze or higher. If NGBS is not available for this project, an equivalent certification from an alternative third-party green building rating system will be acceptable.

D. The structured parking garage in Block 1 shall include a nonreflective screening on the façade on its south facing side.

5. Waivers and Modifications:

- A. Article 2-6.1: The maximum density specified in the zoning ordinance for a given zoning district shall not be exceeded. The maximum density is 5 units per acre or 10 units per acre with inclusion of 10% affordable dwelling units.
- Waiver #1: Increase density to 386 units or 13.28 per acre.
- B. Article 3-4.10.4: Required front yard setback from ROW greater than 50' is 40' minimum, if no parking or loading is proposed.
- Waiver #2: Decrease minimum setback to 14' along Broadview Avenue.
- C. Article 3-4.10.4: Required side/rear yard setbacks is 5' minimum.
- Waiver #3: Decrease side/rear yard setbacks to 0'.
- D. Article 8-8.5: Minimum buffer width for commercial uses adjacent to residential uses is 25', plus 1' for each foot of building height over 35'. Minimum buffer width for rear boundaries of residential uses from public ROW is 25'.
- Waiver #4a: Decrease buffer width between commercial and residential uses to 0'.
 - Waiver #4b: Decrease rear buffer width for residential uses from public ROW to 14'.
- E. Article 2-20: Height limit for dwellings may be increased up to 45' and up to three stories provided that front, side and rear setbacks increase 1' for each additional foot of building height over 35'.
- Waiver #5: Increase height limit for dwellings as follows:
 - 54' max height for Block 1, Oak Springs Drive Frontage
 - 36' max height for Block 1, Broadview Avenue Frontage
 - 36' max height for Block 2
 - 45' max height for Block 3
- F. Article 3-4.4.5.3: No more than six townhouse units shall be grouped contiguously to each other.
- Waiver #6: Increase maximum grouping of townhouse units from six to seven
- G. Article 2-19: Fences and walls may be erected up to a height of six (6) feet in all zoning districts, except for fences or walls that extend within the required front setback.
- Waiver #7: Allow retaining walls in excess of six feet on Oak Springs Drive and Hastings Lane; and around refuse and dumpster enclosures as approved by the Zoning Administrator.
6. Signage: All signage shall comply with the applicable provisions of Article 6 of the Town of Warrenton Zoning Ordinance.
7. Site Maintenance and Refuse Collection: The Applicant shall maintain the site in a clean and orderly manner and shall arrange for the pickup of trash, litter, and debris. Any refuse storage areas shall be screened with a solid enclosure constructed of materials that are compatible with the buildings on the property. Private refuse collection will be provided by the Homeowners' Association and non-residential businesses. The Association documents shall ensure that pickup times for refuse

from both residential and the non-residential follow Town Code. Deliveries and refuse collection shall follow Town Code Section 11-19(9).

8. Transportation:

A. Access - Access to the site shall be provided as shown on the SUP Plan, subject to changes as may be approved at Site Development Plan review.

B. Loading/Unloading - All loading and unloading of vehicles shall take place on the Subject Property during regular hours of operation and outside of peak travel hours, to the greatest extent possible, in the Loading Area depicted on the Special Use Permit Plan.

C. Obstruction of Travel Ways - No vehicles associated with the use shall obstruct the travel ways, fire lanes, adjoining road network or encroach upon landscaped areas as shown on the Special Use Permit Plan. No vehicles shall be located within site entranceways or otherwise impede ingress, egress, and internal circulation.

D. Parking - The Subject Parcel shall meet all parking requirements as outlined in Article 7. Should it be desired to expand the use in any of the buildings located on the Subject Property, the new proposed use shall be required to apply for approvals that meet Zoning Ordinance and additional parking requirements.

E. Sidewalks - The Applicant shall install sidewalks as shown on the SUP Plan, through these Conditions of Approval, and required by the Town of Warrenton regulations. All sidewalks will be a minimum of five feet (5') in width. The Applicant will install a new section of sidewalk along the east side of Winchester Street, between Lee Highway and Broadview Avenue (behind the Galaxy Strike Bowling Center building) as part of Block 3 improvements.

F. Oak Springs Drive Crosswalk(s) - new crosswalks will be installed on Oak Springs Drive at Hasting Lane and at the entrance to Highland School as provided for in the Phasing condition. Inclusion of these crosswalks will be contingent upon and subject to Town of Warrenton at time of Site Development Plan approval.

9. Water & Public Sewer Connection: The Property shall connect to public water and public sewer. A pre and post closed-circuit TV inspection will be required with inspection prior to residential occupancy permits.

10. Stormwater Management: The site is to be planned and designed as a redeveloped site under the State's Runoff Reduction requirements for Stormwater Management (SWM) and in compliance with the Town of Warrenton's SWM Ordinance at time of construction.

11. Affordable Dwelling Units:

A. The Applicant shall provide the following minimum number of Affordable Dwelling Units (ADUs):

- 10% of total dwelling units within each of the three blocks (Block 1,

Block 2 and Block 3) will be reserved as 80% AMI ADUs;

- Ten (10) additional dwelling units in Block 1 will be reserved as 70% AMI ADUs;
- Five (5) additional dwelling units in Block 1 will be reserved as 60% AMI ADUs

B. The Applicant shall maintain the ADU program on all rental units for a period of twenty-five (25) years from the issuance of the Special Use Permit (the "Affordability Period").

C. Within Block 1, allocation of the ADUs between 1-, 2- and 3-bedroom units will be at the discretion of the Applicant, so long as the minimum number of units defined above are maintained as ADUs. Within Block 2 and Block 3, wherein all units are 3-bedrooms, all ADUs will be 3-bedrooms. The ADUs shall be identical to the market rate units in architectural design, fixture/appliance selections and unit size. ADUs will be distributed so that no more than three (3) are adjacent in Block 1 and none shall be adjacent in Blocks 2 and 3. The ADUs shall be architecturally identical to the market rate units. The size of these units shall be identical to the market rate units.

D. "Qualified Parties" and "Rent Limits" for ADUs, are defined as:

- For the purposes of qualifying for the lease of an affordable rental ADU a Qualified Party shall be an individual or a family whose gross annual household income does not exceed 60%, 70%, or 80% (dependent on the specific ADU) of the current Multifamily Tax Subsidy Program (MTSP) Income Limits for Fauquier County as published by the Virginia Housing (formerly known as VHDA), at the time the rental application is opened for such Qualified Party ("AMI"). If Virginia Housing has not published the Income Limits used under this Condition 11 for a period of more than 365 days, the Zoning Administrator shall notify the property owner at the record address given in the Fauquier County tax records of a new comparable Income Limits program to be used based on the available information about income in the Warrenton or Fauquier County housing markets.
- For the purposes of determining the Rent Limits for all ADUs, monthly rental rate limits shall be equal to those published by Virginia Housing for 0-, 1-, 2-, and 3-bedroom units and corresponding 60%, 70% and 80% AMIs, with no utility allowances.
- For the purposes of qualifying for the purchase of an ADU in Block 2 or Block 3, a Qualified Party shall be an individual or a family whose gross annual household income does not exceed 80% of the current Multifamily Tax Subsidy Program (MTSP) Income Limits for a 4-person household in Fauquier County as published by Virginia Housing, at the time the purchase contract is executed for such Qualified Party.
- For purposes of determining the purchase price of any for-sale ADU, that price will not exceed the amount at which the monthly mortgage payment for such unit exceeds the monthly rent limits for 3-bedroom units and 80% AMI income, as published by Virginia Housing. Qualifying Parties must provide a market rate loan commitment prior to closing in order to calculate the proposed mortgage payment.

E. ADU status shall be set forth in a deed of restrictive covenants recorded against the Property and shall continue to bind the minimum ADU requirement within each block to the Property for a period of twenty five years from the issuance of this Special Use Permit; provided, however, that for rental units, the Applicant may recalculate the rental

rates for new leases or renewals in accordance with the then current rates published by Virginia Housing.

F. The Applicant shall establish in a deed of restrictive covenants a program for the administration of this ADU program according to the requirements of these conditions.

G. The Applicant shall designate on the Construction Drawings submitted for building permit approval which units will be the initial ADUs; however, the units that are selected as the initial rental ADU units are not required to remain as the designated rental ADUs for the entirety of the Affordability Period. The Applicant will have the authority to re-designate the rental ADUs from time to time based on leases and vacancies. The Applicant will maintain a building plan set at the leasing office located in the Block 1 at all times that shows which units are currently designated as rental ADUs, a copy of which shall be made available to the Zoning Administrator upon request.

H. The documents creating the ADU program shall be reviewed and approved by the Town Attorney prior to their recordation in the Land Records.

I. ADUs will first be made available to the following persons with preference to the first three bulleted items below:

- Those residing or working in the Town of Warrenton or Fauquier County
- Town of Warrenton or Fauquier County teachers
- Town of Warrenton or Fauquier County first responders
- Veterans and enlisted members of the United States Armed Forces

J. The Applicant shall contact the appropriate local Social Service and/or Housing Authority offices for help to identify and place of local residents.

K. The community's Property Management Team shall make annual reports to the Zoning Administrator as to the number, type and location of units hereunder that shall have been rented as ADUs and shall verify that they have been rented to Qualified Parties.

L. Separate entrances for ADU apartment entrances are not permitted.

M. All ADU occupants shall have the same rights and privileges to amenities as market rate unit residents, except for as provided under the condo sale provision.

N. All ADUs shall meet the US Department of Housing and Urban Development Accessibility Requirements for Multifamily Buildings under the Fair Housing Act.

12. Site Surface: All outdoor areas used for open spaces, amenities, facilities, parking, storage, loading, display and driveways shall be constructed and maintained in good repair, free of cracks or damage to the surface.

13. Electric Vehicle Charging Stations: a minimum of 2% of the total spaces

included within the Block 1 parking garage will include electric charging stations for tenant use. EV stations shall be reserved for electric vehicles only and enforcement will be monitored by the Property Management team.

14. Landscaping: All Zoning Ordinance requirements must be met for landscaping, except as provided for in approved waivers and/or modifications. The Owner shall be responsible for the maintenance and replacement of all plantings on site. Any diseased or dead landscaping shall be replaced within one season of dormancy.

15. Emergency Services:

A. All future Site Development Plans shall illustrate adequate access to the site for Emergency Service vehicles, subject to approval by the Community Development Director or Zoning Administrator. Nothing shall be placed or constructed on the site that would prohibit or restrict Emergency Service vehicles from mounting curbs or accessing structures. There shall be no parking of any vehicles in the travel ways. Mountable curbs will be required at new and/or modified entrances.

B. Fire hydrants shall be installed in locations acceptable to the Town of Warrenton.

C. Buildings shall have supra boxes installed on them with a fire alarm panel inside the front and rear entrances of the structures.

16. Lighting:

A. All outdoor lighting shall be in conformance with the Zoning Ordinance.

B. The Applicant shall prepare and submit a photometric plan in connection with Site Development Plan review.

C. All site lighting, to include both new fixtures within the new development areas as well as any non-residential area that is modified as a part of site development, must consist of fully-shielded, full cut-off fixtures to meet the requirements of Article 9, Section 9-8.

D. Color temperature of exterior light fixtures will be 3,000 degrees kelvin or lower.

E. Average horizontal illumination level of exterior light fixtures will be 3.0 footcandles or less.

17. Open Space: each residential block/parcel and the residual retail parcel will individually meet the 10% usable open space requirement. The Applicant will construct and maintain all open spaces in general conformance with the improvements noted and shown in SUP "Open Space Plan." Benches, bicycle racks, and other amenities shall be provided as shown on the SUP "Open Space Plan."

18. Modified Alley: The Applicant will build and maintain the Modified Alley in general conformance with the improvements shown in this area on the Plan.

19. Three Bedroom Unit Maximum: A maximum of 10% of the units located in Block 1 will be 3-bedroom units.

20. Condo Sale of Block 2 and Block 3: Applicant will maintain the ability to sell the entirety of Block 2 (Multi-Family Townhomes) and/or the entirety of Block 3 (Multi-Family 2-Over-2 and Townhomes) as Condos. The Applicant agrees to sell all or none of the units within Block 2 or Block 3, so as to prohibit a mix of for rent and for sale units in the same block.

All conditions of the SUP will continue to be enforced in a block sale scenario through the Declarations of Restrictive Covenants that the Applicant will record and encumber the Block 2 and/or Block 3 parcels.

In a block sale scenario, Homeowner Associations will be established to maintain all conditions of the SUP and will own the block parcel, while individual condo owners will own the condo dwelling units.

In a sale scenario, residents/owners of the condos will not be tenants of the apartment community and will not have access to the rental amenities located within Block 1. In a block sale scenario, 10% of the units within the sold block will be required to be sold as ADUs, in accordance with the language outlined in Affordable Dwelling Units of this Conditions of Approval.

21. Block 1 Amenities: All amenities located within Block 1 will be available for use by tenants of residential rental units owned by the Owner in all three blocks (Block 1, 2 and 3). If residential units within Block 2 and/or Block 3 are sold by the Owner in a condo sale, the fee simple owners of the residential condos will not have access to the Block 1 amenities contained within the apartment complex. All public amenities shall continue to be open to Block 2 and 3 residents.