

PROFFER AMENDMENT STATEMENT

Stafford Nursing Home and Retirement Community
Stafford, Virginia

County: County of Stafford, Virginia

Applicant: Stafford SNF Investors, LLC (“Applicant”)

Owner: Stafford ~~IL-AL Investors, LLC and Stafford~~ Residential I, LLC
(collectively, “Applicant “Owner””)

File No. RC~~16151470~~17 (formerly RC16151470, RC1300524 & RC2900127)

Property: Tax Map & Parcel Nos.: 44FF-1, 44FF-2 and 44FF-2B, consisting of 21.773 acres, more or less, 7.058 acres of which (Parcel 44FF-2B) are a part of this application (collectively the “Property”)

Proffer
Amendment
Date: ~~April 26~~, December 22, 2017

Zoned: LC Life Care/Retirement District

RECITALS

WHEREAS, on or about March 4, 2008, the Stafford County Board of Supervisors did approve the ~~Applicant~~Owner’s original rezoning request pursuant to Ordinance O08-03; and

WHEREAS, on or about August 18, 2009, the Stafford County Board of Supervisors did approve certain amendments to the proffered conditions of O08-03 pursuant to Ordinance O09-35; and

WHEREAS, on or about June 17, 2014, the Stafford County Board of Supervisors did approve certain amendments to the proffered conditions of O09-35 pursuant to Ordinance O14-20; and

WHEREAS, on or about June 20, 2017, the Stafford County Board of Supervisors did approve certain amendments to the proffered conditions of O14-20 pursuant to Ordinance O17-21; and

WHEREAS, since the aforesaid zoning approval, the Applicant has diligently undertaken extensive steps to develop the Property and presently operates facilities with 46 Independent Living units, ~~142~~127 Assisted Living bedsunits, and a ~~120~~90 bed nursing home facility; and

WHEREAS, Applicant desires to better serve the Stafford County community by amending the current proffered conditions under Ordinance O~~14-20~~ by allowing the Independent Living units to be developed as either Independent Living units or Assisted Living beds ~~17-21~~ to allow the development of additional skilled nursing beds, all in accordance with the below proffer amendment statement; and

WHEREAS, it is the purpose of this proffer amendment statement to provide the following amended proffers:

1. General Application & Effect. Subject to the terms herein, the purpose of this proffer amendment statement is to amend the prior approved amended proffers under Ordinance O~~14-20~~ 17-2021 as provided in this statement and for no other purposes. This proffer amendment statement will replace and supersede all prior proffers approved under Ordinance O~~14-20~~ 17-21, and the proffers under Ordinance O~~14-20~~ 17-2021 will ~~hereby~~ thereby be void, unenforceable and of no further legal effect upon the Stafford County Board of Supervisor's ("County") final approval of this proffer amendment statement and underlying application. The County and the Applicant agree that the amended proffers provided herein are the only proffered conditions offered in this proffer amendment application, and any prior proffers in which the Property may be subject to or previously offered are hereby superseded by these proffers. Notwithstanding anything to the contrary is this proffer statement, several of the following proffers, ~~since~~ which derive from the initial rezoning approval and ~~amendment~~ amendments thereafter, may have ~~been~~ previously been fully satisfied and remain applicable herein only for purposes of continuing consistency and clarity with said prior proffer statements, except as otherwise amended hereunder.
2. Generalized Development Plan. The Property will be developed in accordance with the Generalized Development Plan ("GDP") submitted with this proffer amendment application entitled "Generalized General Development Plan —Stafford Nursing Home and Retirement Community", prepared by ~~Greenhome & O'Mara, Inc.~~ Bowman Consulting, dated ~~April, 2009~~, December 2017, as last revised ~~December 17, 2017~~. The County and the Applicant further agree that all parcel lines, parcel sizes, building envelopes, building sizes, public road locations, private driveway and travel way locations, utility locations, storm water management facilities, and dimensions of undeveloped areas shown on the GDP may be amended by the Applicant to fulfill requirements of final engineering and design and/or compliance with state agency regulations including, but not limited to, VDOT, DEQ, etc., and compliance with the requirements of the County's development regulations and design standards manual. Changes consistent with the original intent of the GDP (the original intent of the GDP providing only for the general location of the buildings, parking areas, and entrances to and exits from the development) will be permitted. Where it is necessary to determine if changes are consistent with the original intent of the GDP, the same will be referred to the County Zoning Administrator for determination thereof. Notwithstanding all of the foregoing, all final site and construction plans approved by the county subsequent to the approval of the GDP shall supersede and govern the development of the Property for purposes of this Section 2.

3. Developmental Phasing. The Property will be developed in multiple phases as depicted on the ~~GDP~~prior GDP entitled “Generalized Development Plan – Stafford Nursing Home and Retirement Community”, prepared by Greenhorne & O’Mara, Inc., dated April, 2009, as last revised (“2009 GDP”). In this regard, Phase I will include only the construction of the Phase I Skilled Nursing Home Facility (“Phase I SNF”) (as described below under Section 5) and accompanying amenities as shown on the 2009 GDP. In this regard and for purposes of this proffer amendment, the Applicant will utilize Brandywine Court as primary access to and from the ~~nursing home facility~~Phase I SNF with an emergency personnel access to Berea Church Road, all as shown on the 2009 GDP. The commencement of Phase II of the project will include Assisted Living ~~units—and upon and~~Independent Living units, along with the Phase II Skilled Nursing Home Facility (“Phase II SNF”) (as described below under Section 5). Upon the completion of Phase II, both the Assisted Living and Independent Living units (as described below under Section 5) and all other improvements will be completed as provided on the 2009 GDP. For purposes of Phase II, the primary access point will change to Berea Church Road, and Brandywine Court will become thereafter only an emergency personnel access point, all as shown on the 2009 GDP. Notwithstanding the foregoing, Phase II of this project will be developed and constructed over a period time as determined by market forces and requirements.

4. Architecture: The architecture proffers for the project will be generally in accordance with the elevations and photographs ~~attached hereto~~previously provided and entitled “Proffered Exteriors” for the Independent Living, Independent Living Apartments, Assisted Living and Skilled Nursing. The buildings will consist of brick, split-face block, drivit, composite siding, glass and concrete. The architectural materials depicted on the photographs will be utilized on all sides of the proposed buildings.

5. Use: The referenced Property will be developed for those uses shown on the GDP and the 2009 GDP, which, when complete, will include the following: (i) for purposes of TM ~~Parcels~~Parcel 44FF-2 and 44FF-2B, 2, a maximum of 556 beds, as either Assisted Living beds or Independent Living units, which shall include a minimum of ~~one hundred (100) Independent Living units (100 IL units = 200 beds) through the full build-out of Phase II, including at any one time no less than~~ 30 Independent Living units (30 units = 60 beds) in place; ~~and~~ (ii) for purposes of Parcel 44FF-1, a Nursing Home Facility (“Phase I SNF”) with a maximum of 120 beds; and (iii) for purposes of Parcel 44FF-2B, a Nursing Home Facility (“Phase II SNF”) with a maximum of 90 beds. The Applicant further agrees to commence construction of the ~~Nursing Home facility~~Phase I SNF prior to the construction of the Independent Living Condominiums.

6. Cash Contribution – The Applicant agrees to pay the County the sum of Seven Thousand Nine Hundred Ninety Five and no/100 Dollars (\$7,995.00) per Independent Living unit (also known herein as IL Units), payable at the issuance of the final County occupancy permit for each Independent Living unit. The per unit payment may, until paid, be subject to annual increases, with prior notice to the Applicant, to be calculated on a yearly basis commencing one (1) year after the date of final County approval of this proffer statement.

Such increases will be calculated by utilizing Marshall Swift adjustment factor for the current year based on the original per unit cash proffer amount.

The per unit contribution for the Independent Living units will be allocated based on the following categories or subcategories, which are subject to the abovementioned annual Marshall Swift adjustment factor from the date of the original approval of the rezoning Ordinance O08-03:

| | |
|--------------------|---------------------|
| General Government | \$ 504.00 per unit |
| Libraries | \$ 581.00 per unit |
| Fire and Rescue | \$ 749.00 per unit |
| Transportation | \$6,161.00 per unit |
| <hr/> | |
| Total per unit: | \$7,995.00 per unit |

Notwithstanding anything to the contrary under this proffer statement, any cash proffers paid for Independent Living Units prior to the date hereof, shall not be reimbursed to the Applicant and are applicable as provided herein.

7. Transportation – The Applicant agrees to apply a portion of the aggregate transportation proffer (listed above) to construct improvements to the intersections of Berea Church Road with Route 17 and with Fleet Road, as recommended by the County Transportation Department and subject to approval by VDOT and the acquisition of necessary right-of-way and easements (collectively “Intersection Improvements”). The Intersection Improvements may include, but not necessarily limited to pavement milling and overlay, signage, pavement markings, lighting, widening, curb and gutter, utility adjustments and drainage facilities. If the Applicant is unable, through the use of commercially reasonable diligence, to obtain the necessary right-of-way and easements for the Intersection Improvements, the County may exercise its powers of eminent domain in order to obtain said right-of-way and easements. In the event that the necessary right-of-way and easements have not been obtained by either means within one (1) year of the date of final approval of this proffer amendment application, the Intersection Improvements will be limited to only those improvements that can be reasonably accomplished within the existing right-of-way and easements. The design, permitting and construction cost of the Intersection Improvements is estimated to be approximately \$582,000.00, more or less. Any remaining balance of the transportation proffer not expended on the Intersection Improvements will be designated for use on Berea Church Road or other area transportation improvement(s) as deemed appropriate by the County. The aforesaid Intersection Improvements will be completed prior to the issuance of a certificate of occupancy for the first building in Phase II.
8. Shuttle Bus Service – The Applicant agrees that a shuttle bus service will be provided for both Phase I and Phase II of the project. The shuttle service will have a regular schedule to locations in the general vicinity of the retirement community and may be modified periodically with notice to residents in the community. The Applicant may also transfer

responsibility for operation of the shuttle bus service to the homeowners association for the retirement community.

9. Additional Donation. The Applicant agrees to provide a \$100,000 recreational proffer paid to the County in the following increments: (a) \$25,000 prior to the issuance of the certificate of occupancy for the nursing home facility under Phase I; (b) \$25,000 prior to the issuance of the certificate of occupancy of the first building in Phase II; (c) \$25,000 prior to the issuance of the certificate of occupancy of the second building under Phase II; and (d) final payment prior to the issuance of the certificate of occupancy for the third building under Phase II.
10. Travel Ways. For purposes of Phase I of the project, all entrances and roadways to and from Brandywine Court will be in conformance with the [2009 GDP](#). The temporary emergency access road will be eighteen feet (18') in width and comprised of gravel only sufficient to support emergency medical services vehicles. Upon the completion of Phase II of the project, the on-site private vehicular roads and travel ways will be constructed no less than twenty-two feet (22") in width (face of curb to face of curb) and the stone and asphalt thicknesses and maximum vertical grades will be in accordance with Virginia Department of Transportation subdivision street criteria for roads of such traffic.
11. Outside Equipment. All mechanical equipment for all of the proposed buildings will be screened from view of the general public.
12. Lighting. The Applicant will design the lighting for the buildings by implementing "down-lighting" techniques for such lighting not to exceed 1.0 foot candles at the property line or so as not to intrude upon the adjacent properties. Lighting within parking areas will not be lighted at any time other than during the same hours that the use to which the parking is appurtenant is open for business except for necessary security lighting.
13. Recreation. The Applicant will provide a no less than five foot (5') wide lighted walking trail with park benches located adjacent to each building on the Property prior to the certificate of occupancy for each respective building as provided on the GDP [and 2009 GDP](#). In addition, the Applicant agrees to place a historical marker, not to exceed \$1,600, identifying Union troop works at a site to be later determined by the Applicant and County.
14. Covenants. Upon completion of Phase II of the project, the Applicant will encumber the Property with a declaration of conditions, covenants, restrictions, and easements ("Declaration") for the purpose of (a) protecting the value and desirability of the property; (b) facilitating the planning and development of the community in a unified and consistent manner; (c) providing for the installation, maintenance, and repair for all common area, including landscaping, on-site amenities and open space; (d) creating an integrated senior housing and healthcare community; and (e) maintaining the 62+ age restriction of the community residents by complying with the exemption criteria of the Fair Housing Act of 1968 and the Housing for Older Persons Act of 1995. The Applicant will also create a property owner's association as a non-stock corporation under the laws of Virginia that

will provide and ensure oversight and structure for services provided, quality standards, intercampus relationships and common area maintenance.

15. Dumpsters. In accordance with each phase of development, the Applicant will locate the dumpsters for the assisted living, nursing homes and independent living buildings in the rear of such buildings with a three-sided brick enclosure with the fourth side of each dumpster consisting of a wood/controlled access opening that provides a solid screen appearance when closed. The Applicant will limit the times for trash pickup during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.
16. Entrance Improvements. Prior to the issuance of the first certificate of occupancy for Phase II of the project and for purposes of Berea Church Road, the Applicant will extend the full-width right turn lane from the required 100' to 200' and the taper from 150' to 200' and add intersection warning signage up to 200 yards north and south of the proposed entrance to inform the public of turning vehicles; these signs will include flashing beacons and will function 24 hours a day/7 days a week/365 days a year. These improvements will be subject to VDOT approval.
17. Street Lights. Prior to the issuance of the first certificate of occupancy for Phase II of the project, the Applicant will install street lights along the frontage of the Property to illuminate the entrance to one foot candle. This improvement will be subject to VDOT approval.
18. FRED Stop. Prior to the first certificate of occupancy for the first building during Phase II and to the extent approved by FRED bus services, the Applicant will add a FRED bus stop to the site to connect to the current FRED D2 line, which operates along Route 17 from Geico into Fredericksburg and FRED Central, subject to final approval by the Fredericksburg Regional Transit Authority or other public transportation system.
19. Sprinkler Systems. All buildings will be sprinklered in accordance with NFPA-13. An area ten feet in width around all buildings to be clear of any structures or vegetation and with a slope not exceeding two percent from the edge of the building to be used by emergency services will be provided.
20. Stairways. All stairways will be enclosed with fire-rated walls and doors and will have standpipes, in accordance with statewide and/or local building codes.
21. Crossings. All bridges and culvert crossings will be designed to handle the weight of fire emergency vehicles and equipment.
22. Defibrillator. The ~~nursing home~~ Phase I SNF and Phase II SNF will each be equipped with a defibrillator on each floor and the Assisted Living Facility will have a defibrillation unit at each nurse's station.
23. Sound Transmission. The nursing home will be constructed with exterior walls of STC 96 as shown on ~~page 2 of~~ the GDP to limit sound transmission.

24. Nursing Home. The area south of the designated perennial stream (bisecting the property) and as designed on the 2009 GDP will not be utilized for any Independent Living Units, and only as a nursing home facility (Phase I SNE).
25. Utilities. The Applicant proffers to provide the Stafford County's Utilities Department with any necessary sanitary sewer easements along Falls Run Creek, for the upgrading of the existing sewer service in the area.
26. Universal Design Considerations For purposes ~~of~~ any Independent Living Units developed in Phase II only, the Applicant agrees to design all units with universal design features to improve accessibility and maximize the independence of the residents. The following is a partial list of our standard universal design features:
- A. All Building entrances will be designed and built as accessible building entrances on an Accessible Route, as defined by the Fair Housing Act.
 - B. All bus stops on the Property will be designed and built to include accessible bus stop shelters with open space for wheelchair occupants and seating for people with limited stamina.
 - C. The primary entrance door to each unit will be built with an optional kick plate on the push side of door to protect the surface of the door and also an optional auxiliary handle to aid in closing the door if the door does not automatically close.
 - D. Lighting fixtures and kitchen, bathroom, and laundry facilities in each unit will use easy to use hardware, which requires little or no strength and flexibility, such as lever door handles, push plates, loop handle pulls on drawers and cabinet doors.
 - E. In units where the washer/dryers are furnished by developer, the units will include clear floor space provided in front of washer/dryer. Free standing front loading machines will be provided to allow for easy access of users; however, stacked washer/dryer units may be used provided the reach range meets ADA guidelines.
 - F. The bathroom in each unit will be equipped, in addition to the framing for future grab bars required by the Fair Housing Act, with grab bars installed behind the toilet and the bathtub, with an additional grab bar installed on the short wall beside the toilet at a minimum distance of 18" away from the toilet. Said bathroom will also include an optional hand held shower head on a slide arm mount, and will include raised toilet seat and spacers installed raising height from 2" to 6" on 15" standard height toilet.
27. Fencing. Upon completion of each applicable phase, the Applicant will provide a split rail fence along the entire perimeter of the Property, except for those areas where a privacy fence is required. All fences will be maintained by the property owner's association.

28. Landscaping. Upon completion of each applicable phase, the Applicant proffers to provide at least twenty five (25) percent of the required Planting Units in all transitional buffers with evergreens. In addition, the Applicant agrees for purposes of further mitigating the CRPA areas (in addition to the already approved major water quality impact assessment) near the ~~nursing-home~~Phase I SNF driving aisle, to plant in the CRPA areas additional indigenous plantings to this site. The additional mitigation plus the approved mitigation associated with Phase I will provide at a minimum, a rate of 1 square foot of mitigation per 1 square foot of encroachment. Further, the Applicant agrees to clean-up, concurrent with the commencement of Phase I, any and all waste located within the project site along and near Falls Run creek and the unnamed tributary to Falls Run.
29. Light Recreational Areas. Incrementally with the completion of each building on the Property, the Applicant will provide, prior to the certificate of occupancy for each respective building, recreational amenities for the residents of the retirement community including, but not limited to, shuffle board, putting greens, horseshoe pits or exercise apparatuses along the walking trails.
30. Certificate of Public Need. The Applicant agrees not to move the Certificate of Public Need outside of the County of Stafford, Virginia.
31. Emergency Gate. Knox key or box access will be provided to emergency personnel for purposes of the Berea Church Road emergency access for Phase I and Brandywine Court emergency access for Phase II. The emergency entrance to Brandywine Court will be in place prior to any occupancy permit in Phase II.

[AUTHORIZED SIGNATURES TO FOLLOW]

OWNER/APPLICANT ACKNOWLEDGMENT & CONSENT

Stafford SNF Investors, LLC
a Virginia limited liability company

By: _____
Print Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____, to wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that _____, _____ for the owner/applicant, and has personally acknowledged the same before me in my aforesaid jurisdiction for the corporation.

GIVEN under my hand and seal this _____ day of _____, 201_____.

Notary Public

Print Name: _____
My Commission Expires: _____
Registration No.: _____
[Seal]

OWNER ACKNOWLEDGMENT & CONSENT

Stafford IL-AL Investors, LLC
a Virginia limited liability company

By: New Horizons Health Investors, LLC, Sole Member

By: Smith Packett Med-Com, LLC, Manager

By: _____

Print Name: Hunter D. Smith

Title: Vice Chairman & Manager

COMMONWEALTH OF VIRGINIA
CITY OF ROANOKE, to wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Hunter D. Smith, in his capacity as Vice Chairman and Manager for the owner/applicant, and has personally acknowledged the same before me in my aforesaid jurisdiction for the corporation.

GIVEN under my hand and seal this __ day of _____, ~~2017~~201.

Notary Public

Print Name: _____
My Commission Expires: _____
Registration No.: _____
[Seal]

OWNER ACKNOWLEDGMENT & CONSENT

Stafford Residential I, LLC
a Virginia limited liability company

By: _____
Print Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA
CITY OF ROANOKE, to wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that _____, in his capacity as _____ for the owner/applicant, and has personally acknowledged the same before me in my aforesaid jurisdiction for the corporation.

GIVEN under my hand and seal this ___ day of _____, ~~2017~~201.

Notary Public

Print Name: _____
My Commission Expires: _____
Registration No.: _____
[Seal]

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