



Proffers for Conditional Rezoning County of Henrico, Virginia

4301 E. Parham Road, Henrico, Virginia 23228
Henrico Planning Web Site: <http://www.henrico.us/planning>

Mailing Address: Planning Department, P.O. Box 90775, Henrico, VA 23273-0775 Phone (804) 501-4602 Facsimile (804) 501-4379

Original Amended Rezoning Case No. REZ2021-00048 Magisterial District Tuckahoe

Pursuant to Section 24-121 (b) of the County Code, the owner or duly authorized agent* hereby voluntarily proffers the following conditions which shall be applicable to the property, if rezoned:

Susan S. Smith / Susan S. Smith
Signature of Owner or Applicant / Print Name

November 30, 2021
Date

**If applicant is other than Owner, the Special Limited Power of Attorney must be submitted with this application*

1. Pattern Book. The Property shall be developed in general conformance with the concept plan, illustrations and information set forth in the Avenlea pattern book (the "Pattern Book") filed herewith, or as it may be updated from time to time, which illustrations and information are conceptual in nature and may vary in detail. If not in general conformance with the foregoing, deviations may be approved in any subsequent Plan of Development, subdivision approval or any variations permitted by the Director of Planning upon the Director finding that the variations are generally in keeping with the spirit and concept of the Pattern Book.
2. Prohibited Uses. The following uses shall be prohibited on the Property:
 - a. funeral homes, mortuaries, crematories and/or undertaking establishments;
 - b. gun shop, sales and repair;
 - c. adult businesses as defined by Section 24-3 of the Henrico County Code;
 - d. establishments whose primary business is check cashing and/or the making of payday loans as defined and regulated by Sections 6.2-2100 et seq. and 6.2-1800 et seq. of the Code of Virginia (the foregoing shall not preclude banks, savings and loans or similar financial institutions that are not regulated by the foregoing Virginia Code sections);
 - e. car title loan operations;
 - f. flea markets;
 - g. billboard signs;
 - h. No free-standing, single tenant building, excluding the food truck or food hall area, shall be used for a fast food restaurant, not to exclude, however, fast-casual restaurants such as Panera, restaurants with dedicated parking for the pickup of carry-out food, nor restaurants whose primary business is the sale of specialty coffees or other non-alcoholic beverages or pastry. The Director of Planning shall determine if a restaurant is fast food or fast casual pursuant to the above. The foregoing permitted uses, as well as banks and pharmacies, may have drive-thru lanes; and
 - i. the sale, display or on-premises use of retail CBD or hemp-based products. Retail CBD and hemp-based products are products related to or derived from CBD oil (cannabidiol) or hemp, including without limitation oils, vitamins, supplements, food, personal care and garments.
3. Severance. The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.
4. Residential Density. No more than 1,600 residential dwelling units shall be permitted on the Property, which limitation does not apply to units which are a part of a life care, assisted living and/or nursing home facility; however independent living units within a life care facility shall apply. The maximum number of residential dwelling units, unless



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otherwise approved by the Director of Planning at the time of Plan of Development and/or subdivision approval, shall be:

- a. Blocks A-H cumulatively: A maximum of 610 residential dwelling units in the aggregate, of which no more than 270 units can be apartments units.
- b. Blocks I-K cumulatively: A maximum of 440 residential dwelling units in the aggregate, of which no more than 270 units can be apartment units.
- c. Block L-O cumulatively: A maximum of 550 residential dwelling units in the aggregate, which may be a combination of townhomes, condominiums, and single family detached homes.
- d. The Residential Blocks in the aggregate, as depicted in the Pattern Book, shall contain at least two (2) different product types, in addition to any apartments which may be a residential and a commercial product, or just different residential products.
- e. There shall be no more than 800 (eight hundred) residential units of any one type within Avenlea as a whole.
5. Commercial Space. Blocks A, E, F and J shall, in the aggregate at the time of full development contain a minimum of 150,000 square feet of commercial space, unless the herein requirement has been met taking into account the other blocks in the development, unless otherwise approved by the Director of Planning at the time of Plan of Development and/or subdivision approval.
6. First Floor Commercial. At least 50% of that portion of the rentable finished first floor area of multi-family, for-rent buildings in Blocks A, E, F and J which front on a Primary Commercial Street shall be restricted to commercial uses, unless otherwise approved by the Director of Planning at the time of Plan of Development approval.
7. Easements. The applicants shall provide one another with non-exclusive, cross-easements for access, utilities, storm-water and the construction and maintenance thereof.
8. With each POD submission, should the proposed use be materially inconsistent with, and negatively impact the findings in the Traffic Impact Analysis submitted with the rezoning, such Analysis shall be updated upon request by the Director of Public Works.
9. Setbacks. Minimum setbacks shall be generally as shown in the Pattern Book unless otherwise approved by the Director of Planning at the time of Plan of Development or Subdivision Plan approval.
10. Parking Plan. The applicant shall provide a minimum number of parking spaces as required by the UMU Ordinance. Should reduced parking be requested, parking information in support of such request shall be provided with the Plan of Development or Subdivision Plan for approval.
11. Signage. Signage within Avenlea shall be generally consistent with the styles depicted in the Pattern Book unless otherwise approved by the Director of Planning at the time of Plan of Development or subdivision approval. No mounted billboard-type signage shall be permitted.



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12. Exterior Building Materials.

a. Residential Structures. All buildings shall have exposed exterior walls (above grade and exclusive of trim) of stone, stone veneer, brick, hardi-plank, or a combination of the foregoing unless different architectural treatment and/or material are specifically approved with respect to the exposed portion of any such wall, at the time of Plan of Development review. A minimum of thirty (30) percent in the aggregate for each building and an average of thirty-five (35) percent in the aggregate for all buildings, of the exterior portions of the front building wall surfaces of each building, excluding windows, doors, breezeways, gables and architectural design features, shall be of brick, stone or stone veneer construction.

b. Commercial Structures. The exposed portion of each exterior wall surface (front, rear and sides) of any commercial building (excluding rooftop screening materials for mechanical equipment) shall be similar to the exposed portions of other exterior walls of such building in architectural treatment and materials. Any building shall have exposed exterior walls (above finished grade and exclusive of trim) of brick, glass, E.I. F.S., stone, stone veneer, split face block, cementitious, composite-type siding, architectural-grade metal panels, or a combination of the foregoing, unless different architectural treatment and / or materials are specifically approved with respect to the exposed portion of any such wall, at the time of Plan of Development. A minimum of forty (40) percent of each façade of buildings which face N. Gayton Road or I-64, excluding windows, doors, breezeways, gables and architectural design features, shall be of brick, stone or stone veneer construction. No building shall be covered with or have exposed to view any painted or unfinished concrete block, or industrial-grade metal, unless otherwise specifically approved at the time of Plan of Development. Any sloped roofs shall be constructed of slate, simulated slate, standing seam metal or textured fiberglass shingles, architectural shingles, cedar shakes, concrete or composition shingles. Retail users will be permitted to include prototypical or corporate identification architectural elements in the design of their building or space.

13. Structured Parking Facades. The facades of any structured parking shall be complementary with the color and materials of the building(s) it serves, unless otherwise approved by the Director of Planning at the time of Plan of Development or Subdivision Plan approval, in general conformance as depicted in the Pattern Book on pages 50 and 53. Screening of open areas within the structured parking deck shall be determined at the time of Plan of Development or Subdivision Plan approval.

14. Building Heights. Buildings within one hundred fifty (150) feet of the northern line of Block "O" as shown in the pattern Book shall not exceed forty-five (45) feet in height, unless otherwise approved by the Director of Planning at the time of Plan of Development or Subdivision Plan approval.

15. Height Exception Limitation. The exception to the maximum height of buildings in Avenlea shall only apply to Blocks "A" through "J" as shown in the Pattern Book, unless otherwise approved by the Director of Planning at the time of Plan of Development or Subdivision Plan approval.

16. Vendor Areas. Areas of the Property may be designated on the Master Plan, as may be revised from time to time, or a Plan of Development, for the preparation of food or beverages or the sale or display of merchandise conducted in an open area or structure by one or more individual vendors operating from stalls, stands, carts, vehicles or other spaces which are rented or otherwise made available to such vendors. Such activities may include a market, sale of merchandise as part of a permitted festival or other similar special event, or the outdoor display or sale by a food or beverage vendor, operated as an incidental part of retail activity regularly conducted from within a permanent building on the premises. Clearance areas next to outdoor vending areas shall not be reduced to less than four (4) feet, except to accommodate a permitted festival or other



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similar special event. Convenience trash receptacles shall be provided for each block that contains outdoor vending area.

17. **Open Space/Connectivity.** Avenlea Trace as depicted in the Pattern Book, shall be provided consistent with the phasing of the development. A pedestrian trail to include passive or active amenities shall be within Avenlea Trace. A pedestrian access system shall be provided connecting the major areas of the development.
18. **Outdoor Music.** Outdoor music shall not be permitted on the Property after 9:00 p. m. Sunday through Thursdays nor after 11:00 p. m. on Friday, Saturdays and holidays, unless otherwise approved by the Director of Planning.
19. **Hours of Construction.** The hours of exterior construction activities, including operation of bulldozers and other earthmoving equipment shall be between 7:00 a. m. and 7:00 p. m. Monday through Friday and 7:30 a. m. and 5:00 p. m. on Saturdays, except in emergencies or where unusual circumstances require the specific hours in order to complete work as concrete pours and utility connections. No exterior construction activities shall be allowed on Sundays, unless approved by the Director of Planning due to weather-related issues during the preceding week prohibiting exterior construction. Signs, in both English and Spanish, stating the above-referenced provisions, shall be posted and maintained at all entrances to the Property prior to any land disturbance activities thereon.
20. **Open Space and Common Areas.** Open space and common areas shall be as generally shown in the Pattern Book. A minimum of fifteen (15) percent of the acres in the development in the aggregate at the time of full development shall be provided in open space and /or common areas unless otherwise approved by the Director of Planning at the time of Plan of Development or Subdivision Plan approval.
21. **Site Coverage Ratio.** No More than seventy-five (75) percent of the land in Avenlea in the aggregate at the time of full development shall be covered by buildings unless otherwise approved by the Director of Planning at the time of Plan of Development or Subdivision Plan approval. A chart showing the cumulative total of space covered by buildings shall be provided with each Plan of Development or Subdivision Plan.
22. **Covenants.** Covenants shall be provided as required by the UMU Ordinance which shall require the creation of a three (3) member Architectural Review Committee comprised of a representative from each of the current underlying owners or their permitted successors or assigns, which Committee shall utilize the services of a licensed architect in reviewing submissions. Such covenants shall be provided consistent with the phase of development.
23. **Driveways and Parking Areas.** Driveways shall be constructed of either cobblestone, brick, asphalt, pre-cast pavers, concrete or other similar materials approved by the Director of Planning at the time of Plan of Development or Subdivision plan approval.
24. **Sound Suppression.** The exterior walls in any (for sale) homes adjacent to Interstate 64 shall be insulated with "closed cell" spray foamed-in-place urethane insulation.
25. **Hours of Operation.** Hours of operation to the public for retail businesses shall not occur before 5:00 a.m. nor after 12:00 a.m. The foregoing shall not apply to fitness or care facilities.



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26. Residential Lot Area and Width Dimensions. Residential minimum lot widths shall be 16' for attached homes and 26' for detached homes. Residential minimum lot areas shall be 800 square feet for attached homes and 1,300 square feet for detached homes.

ME PAYNE, LC
ME TAYLOR, LLC
TRIPLE J FARMS, LLC

By: Susan S. Smith
Susan S. Smith, Attorney-in-Fact
Date: November 30, 2021

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