

DRAFT PROFFERS

OX HILL REALTY, LLC

**ZONING MAP AMENDMENT
THE OX FAIRFAX – BLOCK A**

Z-23-00420

January 5, 2024

Pursuant to Section 15.2-2303(a) of the *Code of Virginia*, 1950, as amended, and Section 110-7 (b) of the Zoning Ordinance of the City of Fairfax, Virginia, Ox Hill Realty, LLC, for the itself, the owners, and successors and/or assigns (hereinafter referred to as the "Applicant") in Z-23-000420 filed on property identified on the City of Fairfax tax map 57-4-2-44, -45, and -46 (hereinafter referred to as the "Application Property") hereby proffers the following, provided that the Fairfax City Council approves a rezoning of the Application Property from the CR and HOD Districts to the CU and HOD Districts with a concurrent special use permit request in conjunction with a General Development Plan and Special Use Permit Plat to allow the construction of a mixed-use development that includes a concert hall, a hotel with an associated concert center, office, retail and restaurant uses. In the event the rezoning and/or the special use permit is denied by the Council, these proffers shall immediately be null and void.

1. MASTER DEVELOPMENT PLAN/SPECIAL USE PERMIT PLAT

Development of the Application Property shall be in substantial conformance with the General Development Plan/Special Use Permit Plat prepared by Urban, Ltd., dated June 16, 2023, as amended through January 5, 2024 (the "GDP/SUP Plat"). Minor modifications to site design and the improvements identified on the GDP/SUP Plat may be made in response to final design and engineering, subject to the approval of the Zoning Administrator and/or the Director of Community Development and Planning, as applicable.

2. USES

The following uses shall be permitted on the Application Property as identified on the GDP/SUP Plat:

- A. A concert hall and black box theater with a combined capacity of up to 4,244 patrons.
- B. A hotel with up to 170 guest rooms and up to 26,127 square feet of conference center space.
- C. Two art galleries including up to 8,399 square feet of floor area.
- D. Up to 27,824 square feet of retail/restaurant uses.

- E. The existing uses on the Application Property may remain until the commencement of construction.

3. TRANSPORTATION

- A. Maintenance and Access of Private Streets. The proposed entrance drive on the Application Property shall be constructed and maintained by the Applicant as a private street. The Applicant shall record among the land records public ingress/egress and emergency vehicle access easements, in forms approved by the City Attorney, over all streets or portions thereof located on the Application Property.
- B. Sidewalks. The Applicant shall construct sidewalks along street frontages and on portions of the Application Property as identified on the GDP/SUP Plat. The Applicant shall record among the land records a public ingress/egress easement, in a form approved by the City Attorney, over all sidewalks or portions thereof located on the Application Property, including but not limited to the east-west sidewalk connection through the Application Property from Chain Bridge Road to University Drive.
- C. University Drive Right of Way Dedication. Prior to site plan approval, the Applicant shall dedicate up to thirty (30) feet from centerline along the Application Property's University Drive frontage as identified on the GDP/SUP Plat to comply with the minimum right-of-way required by the Subdivision Ordinance. Said dedication shall be made at no cost to the City of Fairfax.
- D. Bicycle Racks and Scooter Docking Stations. Prior to the issuance of a zoning permit for use an occupancy, the Applicant will install bicycle racks and scooter docking stations on the Application Property in the general locations identified on the GDP/SUP Plat, in coordination with DPW at the time of site plan.
- E. Bus Shelter. Prior to the issuance of a zoning permit for use and occupancy, the Applicant will install a bus shelter on Chain Bridge Road in the general location identified on the GDP/SUP Plat, in coordination with DPW at the time of site plan. Upon installation, the Applicant shall have no responsibility for ongoing operation or maintenance of the bus shelter.

4. UTILITIES

All new on-site utilities installed on the Application Property will be located underground. All existing overhead utilities along street frontage of the Application Property will be either removed or relocated underground. With its first and all subsequent site plan submissions, the Applicant shall include a detailed utility undergrounding plan demonstrating compliance with this proffer for review and approval by DPW. In conjunction with the utility undergrounding or relocation the Applicant will coordinate as necessary with any affected abutting or surrounding property owners.

5. STORMWATER MANAGEMENT

Design and construction of stormwater management facilities shall comply with all applicable Virginia Stormwater Management Program (VSMP) Permit Regulations, as may be amended, or other relevant standard in place at the time of site plan submission.

6. LANDSCAPING AND OPEN SPACE

A. General. Landscaping on the Application Property shall be in general conformance with the landscape design shown on the GDP/SUP Plat. Final selection of the type and location of vegetation and the design of landscaped areas and streetscape improvements/plantings shall be made as a component of the site plan approval process.

B. Public Plaza. The proposed plaza at the intersection along the Chain Bridge Road frontage of the Property is located on property owned by the City of Fairfax. It is anticipated that the plaza will include, subject to City approval, bicycle racks, an electric vehicle docking station, a City standard bus shelter, benches, and landscaping. Notwithstanding what is shown on the GDP/SUP Plat, the final design and programming of the public plaza shall be determined in coordination with the City at the time of site plan. The Applicant shall be responsible for maintenance of the Public Plaza, subject to an agreement between the Applicant and the City.

7. PARKING

A. The Applicant shall provide parking in conformance with the GDP/SUP Plat. Parking will be located in the proposed below-grade parking garage, and in the existing surface parking lot on the southern portion of the Application Property. The surface parking lot will remain as an interim condition until such time as the Applicant proceeds with its anticipated redevelopment of the adjacent parcel. At such time as the Applicant proceeds with the submission of a rezoning or such other land use application to redevelop the adjacent parcel, the land area associated with the interim parking lot shall be included in such application, and a concurrent GDP/Proffer Amendment application shall be submitted in conjunction with such application to amend Z-23-00420.

B. The garage shall be available and accessible to patrons, employees, visitors and guests of the proposed uses identified on the GDP/SUP Plat. The Applicant and/or the operators of the concert hall and hotel (the "Operators") shall establish rules, regulations, and procedures for the parking garage. Parking management shall entail the efficient use of available constructed parking spaces, and may include, but is not limited to, the assignment of parking spaces to uses or tenants within the parking garage, the designation of parking spaces for patron, guest, or employee use, and other parking management methods identified by the Applicant and/or the Operators. The Applicant and/or the Operators shall designate an individual(s), which may be the property manager, who shall be responsible for parking management.

8. SUSTAINABLE DESIGN.

In order to promote energy conservation, sustainability, and green building techniques, the Applicant shall seek a green building certification level of LEED Silver (or equivalent) for the proposed buildings. A LEED accredited professional (AP) shall be included as a member of the design team. At the time of site plan submission, the Applicant shall include a list of specific credits with the registered version of the LEED (or equivalent) rating system that the Applicant anticipates attaining. The LEED-AP will provide a written certification statement confirming that the items on the list of credits will meet at least the minimum number of credits to attain LEED certification for the building. Prior to final bond release for the building, the Applicant will submit documentation to the Department of Community Development and Planning confirming the status of LEED certification for the building.

9. SIGNS.

All signs on the Application Property shall comply with the regulations set forth in the Zoning Ordinance. The Applicant reserves the right for itself, its successors and assigns, to pursue a special exception or such other required approval for signs not otherwise permitted by the Zoning Ordinance.

10. CONSTRUCTION MANAGEMENT

A. Prior to site plan approval, the Applicant shall submit a Construction Management Plan for approval by the Director of the Department of Public Works (DPW) or his/her designee. The Construction Management Plan shall address items including, but not limited to, the following:

- (i) Hours of construction;
- (ii) Truck routes to and from construction entrances to the Application Property;
- (iii) Maintenance of entrances.
- (iv) Location of parking areas for construction employees;
- (v) Truck staging and cleaning areas;
- (vi) Storage areas;
- (vii) Temporary fencing as needed to screen on-site staging areas;
- (viii) Trailer and sanitary facility locations;
- (ix) Traffic control measures; and

- (x) Fencing details, including specifications for an opaque construction fencing and/or wrap that identifies the project and provides contact information for the developer and/or general contractor.
- B. Prior to site plan approval, the Applicant shall provide a plan to DPW for temporary pedestrian and vehicular circulation during construction. This plan shall identify temporary sidewalks and any other features necessary to ensure safe pedestrian and vehicular travel during construction.
- C. Prior to commencement of construction, the Applicant shall provide the Department of Community Development and Planning with the name and telephone number of a community liaison who will be available throughout the duration of construction on the Application Property.
- D. Outdoor construction activity shall be limited to the hours of 7:00 a.m. to 6:00 p.m., weekdays, and 8:30 a.m. to 5:00 p.m., Saturdays. No construction activity shall take place on Sundays.

11. MISCELLANEOUS

- A. Lighting. All outdoor lighting provided on site will comply with the provisions of Section 4.8 of the Zoning Ordinance. At the time of site plan the Applicant will submit a photometric plan demonstrating compliance with the requirements of Section 4.8 for review and approval by DPW.
- B. Archaeology. The Applicant will conduct a Phase I archaeological study of the Application Property at the time of site plan. The Applicant will provide the results of said study to the City for review and approval prior to site plan approval. Should the Phase I study conclude that additional study is warranted, the Applicant will complete said study and provide the results to the City prior to the commencement of land disturbing activities. The study will be conducted by a qualified archaeological professional selected at the Applicant's discretion. Should adjustments be needed to the improvements identified on the GDP/SUP Plat as a result of the Phase I study, said adjustments may be made without the necessity of a GDP amendment.
- C. Documentation of National Bank of Fairfax. Prior to commencement of construction and/or renovation work in the National Bank of Fairfax building, the Applicant will submit interior photographs and an interior paint analysis of the existing building to the City's Office of Historic Resources.
- D. 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 when taken together shall constitute but one in the same document.
- E. Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and its successors and assigns.

[SIGNATURES BEGIN ON FOLLOWING PAGE]