

Prepared by:
Dr. Arnita Snead Brooks, Owner
4060 Ravine Gap Dr.
Suffolk, VA 23434
After recording return to:
Office of the City Attorney
22 Lincoln Street
Hampton, Va. 23669
(jek)

LRSN: 3004763

PROFFER AGREEMENT

THIS PROFFER AGREEMENT ("Agreement") made this ____ day of _____ 2024, by and between DR. ARNITA SNEAD BROOKS (the "Grantor"); and THE CITY OF HAMPTON, a municipal corporation of the Commonwealth of Virginia (the "Grantee" or the "City"), with an address of 22 Lincoln Street, Hampton City Hall, Hampton, Va. 23669.

RECITALS

- A. Dr. Arnita Snead Brooks is the owner of a certain parcel of property located in the City of Hampton, herein known as LRSN Number 3004763, and more fully described on "Exhibit A" (the "Property").
- B. Grantor has initiated a conditional amendment to the zoning map of the City of Hampton, Virginia, by petition addressed to the Grantee so as to change the zoning classification of the Property from One Family Residential (R-11) District to Multifamily Residential (MD- 4) District.
- C. Grantor has requested approval of this Agreement.
- D. Grantee's policy is to provide for the orderly development of land for various

purposes, including commercial purposes, through zoning and other land development legislation.

- E. Grantor desires to offer the City certain conditions for the enhancement of the community and to provide for the highest quality and orderly development of the Property.
- F. The conditions outlined in this Agreement have been proffered by Grantor and allowed and accepted by Grantee as a part of the amendment of the City Zoning Ordinance and the Zoning Map. These conditions shall continue in full force and effect until a subsequent amendment changes the zoning of the Property; provided, however, that such conditions shall continue if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance of Grantee.

NOW, THEREFORE, for and in consideration of the approval and acceptance by the City of this Agreement, Grantor agrees that it will meet and comply with all of the following conditions in developing the Property. In the event the requested change of zoning classification is not granted by the City, these Proffers shall thereupon become null and void. Grantor, its heirs, successors, assigns, grantees, and other successors in title or interest to the Property, voluntarily and without any requirement by or exaction from Grantee or its governing body and without any element or compulsion or quid pro quo for zoning, rezoning, site plan, building permit or subdivision approval, makes the foregoing declaration of conditions and restrictions governing the use and physical development and operation of the Property, and covenants and agrees that this declaration and the further terms of this Agreement shall constitute covenants running with the Property, which shall be binding upon the Property, and upon all persons and entities claiming under or through the Grantor its heirs, successors and assigns, grantees and other successors in interest or tile to the

Property; namely:

CONDITIONS

- 1) The permitted use of the Property shall be limited to a nursing home, as that use is defined in the zoning ordinance, which may include an assisted living facility as recognized by the Virginia Department of Social Services.
- 2) The Property shall be developed in substantial conformance with that certain plan entitled "SITE CONCEPT PLAN BEEHIVE HOMES, LOCATION #1807 W. QUEEN STREET, HAMPTON, VA" dated 10/3/2024 via receipt of email, prepared by ATCS (the "Conceptual Site Plan"), a copy of which is on file with the Planning and Zoning Division of the Community Development Department and has been exhibited to the Planning Commission and the Hampton City Council for illustrative purposes and to provide justification for this rezoning action. Any minor changes in the Conceptual Site Plan may be made to accommodate environmental, engineering, architectural, topographic or other developmental conditions or site plan approval requirements as required by law and subject to the approval of the Director of Community Development. A copy of the final approved site plan shall be placed in the file with the Planning and Zoning Division of the Community Development Department and shall supersede any previously filed conceptual plan.
- 3) The building shall be built in substantial conformance with the building elevations entitled "BeeHive Homes of Hampton Memory Care VA EXTERIOR ELEVATION," dated 10/3/2024, made by Alt Architecture (the "Elevations"), copies of which are on file with the Community Development Department and have been exhibited to the Planning Commission and the Hampton City Council for illustrative purposes and to provide justification for this rezoning action. Minor changes in the Elevations may be made to

accommodate environmental, engineering, architectural, topographic or other development conditions, building codes, or site/subdivision plan approved requirements as required by applicable laws and regulations and subject to approval of the Director of Community Development or their designee for consistency with the terms of this proffer. A copy of the final approved Elevations shall be placed in the file with the Planning Division of the Department of Community Development and shall supersede any previously filed elevations.

- 4) Fencing shall be provided along the northern, western, and southern boundaries adjacent to the surrounding residential properties at outdoor walking areas. Any fencing located within the front yard shall be decorative metal picket fencing and be no taller than four (4) feet in height. All other fencing shall be wooden or vinyl opaque and be no taller than eight (8) feet in height .
- 5) The dumpster shall be fully screened from public view with an enclosure of durable materials consistent with masonry matching the building architecture. The enclosure shall also include a gate of complementary design and be supplemented with landscaping.
- 6) It is understood that all phases of the proposed project shall comply with all ordinances of the Grantee.
- 7) Further lawful conditions or restrictions against the Property may be required by Grantee during the detailed Site Plan review and administration of applicable codes and regulations of Grantee by all appropriate agencies and departments of Grantee, which shall be observed or performed by Grantor. Grantor acknowledges that additional further lawful conditions or restrictions may be imposed by Grantee as a condition of approvals, including but not limited to final site plan approval.

- 8) All references herein above to zoning districts and to regulations applicable thereto refer to the City Zoning Ordinance of the City of Hampton in force as of the date the conditional rezoning amendment is approved by the Grantee.
- 9) The Grantor covenants and agrees that (1) the Zoning Administrator of the City of Hampton, Virginia, shall be vested with all necessary authority on behalf of the governing body of the City of Hampton, Virginia, to administer and enforce the foregoing conditions and restrictions specified in this Agreement. including (i) the ordering in writing of the remedying of any noncompliance with such conditions, and (ii) the bringing of legal action or suit to ensure compliance with such conditions. including mandatory or prohibitory injunction, abatement, damages or other appropriate action. suit or proceedings; (2) the failure to meet all conditions shall constitute cause to deny the issuance of any of the required building or occupancy permits as may be appropriate; and (3) the Zoning Map shall show by an appropriate symbol on the Map the existence of conditions attaching to the zoning of the subject Property on the Map and that the ordinance and conditions may be made readily available and accessible for public inspection in the office of the Zoning Administrator and in the Department of Community Development and that this Agreement shall be recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia and indexed in the name of the Grantor and Grantee.

[Remainder of Page Intentionally Left Blank- Signatures on Following Page]

WITNESS the following signature:

GRANTOR:

Arnita Snead Brooks
Arnita Snead Brooks

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Suffolk, to-wit:

I, Sonya Collier-Owens, the undersigned, a Notary Public in and for the City/County and State aforesaid, do hereby certify that **Arnita Snead Brooks**, whose name is signed to the foregoing instrument has sworn to, subscribed, and acknowledged the same before me in the City/County and State aforesaid, this 7th day of Oct, 2024. She is personally known to me or has produced VA DL as identification.

Sonya Collier-Owens
Notary Public

My commission expires: 09-30-2024
Registration No. 8031635

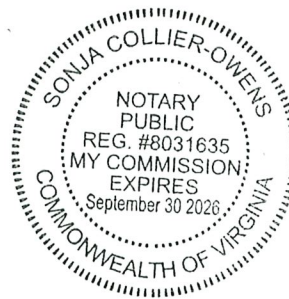


EXHIBIT A

LEGAL DESCRIPTION

PARCEL ONE; THAT CERTAIN PARCEL CONTAINING .91 ACRES, MORE OR LESS AND BEING BOUNDED ON THE EAST BY PARCEL THREE HEREINAFTER DESCRIBED; ON THE SOUTH BY THE PROPERTY CONVEYED TO PRESTIGE PROPERTIES, INC., BY DEED RECORDED IN THE CLERK'S OFFICE OF THE CIRCUIT COURT FOR THE CITY OF HAMPTON, VIRGINIA, IN DEED BOOK 280, PAGE 349; AND ON THE NORTHWEST BY THE PROPERTY CONVEYED TO ALVIN NEWBY BY DEED RECORDED IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 106, PAGE 548.

BEING THE NORTHERLY PORTION OF THE PROPERTY CONVEYED TO EDWARD BLIZZARD BY DEED RECORDED IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 106, PAGE 555.

PARCEL TWO: ALL THAT PARCEL DESIGNATED AS 0.194 ACRE ON A CERTAIN PLAT ENTITLED, "PLAT OF 0.194 ACRE OF LAND OF SAWYER SWAMP ROAD, ELIZABETH CITY COUNTY, VIRGINIA BEING SOLD BY C. E. JONES (SOMETIMES KNOWN AS CORNELIUS JONES) TO ELIZABETH BLIZZARD", WHICH SAID PLAT WAS MADE BY GEORGE E. SAUNDERS AND IS RECORDED IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 217, PAGE 345.

PARCEL THREE: ALL THAT CERTAIN STRIP OF LAND 15 FEET IN WIDTH AND BEING BOUNDED ON THE EAST BY PARCEL TWO HEREINABOVE DESCRIBED; ON THE WEST BY PARCEL ONE HEREINABOVE DESCRIBED; AND ON NORTH BY WEST QUEEN STREET (FORMERLY SAWYER SWAMP ROAD).

EXCEPTING THEREFROM THOSE PORTIONS OF THE AFOREMENTIONED PARCELS CONVEYED TO THE CITY OF HAMPTON FOR HIGHWAY PURPOSES BY DEED RECORDED IN THE AFORESAID CLERK'S OFFICE IN DEED BOOK 301, PAGE 161.