

**Department of Planning &
Development Services**

Director

Susan D. Kassel

Deputy Director

Timothy C. Cross, AICP



Building Safety
Development Services
Planning

February 27, 2024

Donald Davis
Davis & Associates, P.C.
3630 George Washington Memorial Highway
Suite G
Yorktown, VA 23693

Re: Commonwealth Green PDMU

Dear Mr. Davis:

I am writing as a follow-up to your email of January 30, 2024 in which you requested an alternate to the mixture of uses within the mixed use buildings shown on the approved master plan of the Commonwealth Green PDMU (approved February 21, 2012; Ordinance No. 12-1(R) as modified by Ordinance No. 16-13 approved on November 15, 2016 and further modified by Ordinance No. 22-11 approved on June 7, 2022). Specifically, your proposal would involve the possibility that residential units would be permitted on the first floor of the mixed use buildings in lieu of solely commercial uses below the second floor residential uses. The maximum number of residential units is limited to 444 including 334 rental apartments, 94 townhouses and 16 “live-above” units. The site plan for the multi-use buildings was approved on April 13, 2018 and one of the mixed use buildings has been constructed with commercial uses for the first floor and residential uses above. Your request is to allow up to six residential units on the first floor of the remaining two 3-unit mixed use buildings resulting in a possible total of 15 residential units (3 existing live-above units and 12 proposed units). The resulting number of residential units would not exceed the conditioned maximum of 16 such units but would be considered a minor deviation of the approved master plan.

All of the other architectural design and material requirements would remain applicable. The Commonwealth Green project was approved with the requirement that its actual development be in substantial conformance with the Master Plan Concept. However, the Planned Development provisions provide an opportunity for the Zoning Administrator to approve “Limited Deviations” from an approved master plan provided that the changes do not:

- a. *increase development density; materially alter points of access; decrease the amount of open space; increase the amount of impervious surface area; materially alter the drainage and stormwater management system;*
- b. *materially alter recreational amenities; materially change the market orientation of the development; demonstrably and negatively affect the visual appearance of the development as viewed from adjacent properties or public roads;*

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A Hampton Roads Community

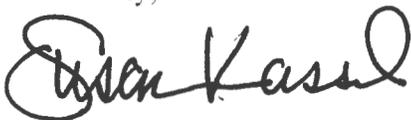
- c. *materially alter the character of the approved overall development master plan; or.*
- d. *be contrary to the legislative intent of the board in approving said overall development master plan.*

Any changes deemed not eligible / appropriate for the Limited Deviation action must be submitted and processed in the same manner as an original application – i.e., with review and public hearing by the Planning Commission and then the same at the Board level. I do not believe your proposal is in conflict with any of the above-listed findings.

After thorough review of your proposal and consideration of the guidelines for “limited deviations”, I have determined that the use of the first floor in the remaining and as yet unconstructed mixed use buildings as either commercial or residential uses is approved. This Limited Deviation approval is granted with the understanding that the general architectural design layout will be in substantial conformance with the designs previously approved on April 13, 2020. It is further understood that the means of ownership will also not change from the townhouse lots proposed on the site plan. Furthermore, all design standards and other conditions of approval, as set forth in Ordinances No. 12-1(R), No. 16-13, and No. 22-11 shall remain applicable and shall be observed. The design standards as set forth in Section 24.1-361.1 shall be observed.

You may wish to keep this letter with your records for future reference. Should you have questions or need additional information, please don't hesitate to contact me.

Sincerely,



Susan D. Kassel
Zoning Administrator

Copy to: York County Board of Supervisors
York County Planning Commission
Mark L. Bellamy, Jr., County Administrator
Timothy C. Cross, AICP, Deputy Director
William S. Daniel, Jr., Senior Planner
Dina Goode, Zoning and Code Enforcement Supervisor

NOTICE

In accordance with Section 15.2-2311 of the Code of Virginia, a decision of the Zoning Administrator, or any order, requirement, decision or determination of an administrative officer in the enforcement of the Zoning Ordinance may be appealed within thirty (30) days to the Board of Zoning Appeals, and, if not, the decision, order or requirement shall be final and unappealable. The filing fee for an appeal application is \$310. Information regarding the appeal application process can be obtained by contacting the Secretary of the Board of Zoning Appeals (757-890-3531).