

FIRST AMENDMENT TO CONDITIONAL USE APPLICATION
AND
REQUEST FOR CONCURRENT VARIANCE

IN RE:)

LENNAR MULTIFAMILY INVESTORS, LLC)
APPLICANT)

Application Number: 201300068

PROPERTY:)

Frazier Street Apartments Located)
at 188 Norcross Street, Roswell,)
Georgia 30075)

Now comes LENNAR MULTIFAMILY INVESTORS, LLC (the "Applicant" hereunder) who does hereby modify and amend the above referenced Conditional Use Application and associated Letter of Intent as follows:

1.

The Site Plan originally filed with the Conditional Use Application is hereby deleted and there shall be substituted and placed in lieu thereof a modified and amended Site Plan to be filed subsequently hereto.

2.

The Letter of Intent is hereby modified and amended to include the following:

"All units shall be constructed to condominium grade with 9 foot ceilings, granite or comparable quality countertops, stainless steel fronts to appliances, LTV wood flooring in certain areas and each unit shall be individually metered."

3.

The Applicant does hereby request a Concurrent Variance to reduce the required number of parking spaces of 512 to a minimum of 410 parking spaces being a twenty percent (20%) reduction as permitted under Article 17.4 of the Zoning Ordinance. The Written Justification for this request is that approval of this request for Concurrent Variance will be in harmony with the purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or to the general welfare. In furtherance of and as an amplification to this Written Justification for this request for Concurrent Variance, the Letter of Intent is hereby modified and amended to include the following:

"The Property is subject to the Groveway Community Hybrid Form-Based Code as has been noted which promotes pedestrian engagement and connectivity with less reliance on vehicular transportation. Given the projected mix of one and two bedroom units only, additional parking is simply not needed. The reduction requested enables the Applicant to create more open and green space without the burden of the hardship of having to provide for parking which is not necessary. In her review of the Conditional Use Application, Leslie Carruth of Randall-Paulson Architects suggests the very reduction in parking which the Applicant is requesting as reflected in her letter of March 6, 2013 to Ms. Jackie Deibel of the City's Community Development Department. This review and the comments submitted were made in concert with Lew Oliver of Lew Oliver, Inc. To require the Applicant to comply with the standard parking requirement would place an undue hardship upon the Applicant while not benefiting the general public. Accordingly, this request for Concurrent Variance is entirely appropriate and the appropriateness of this request for Concurrent Variance and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" attached hereto and by reference thereto made a part hereof."

Now, therefore, the Applicant requests that this Conditional Use Application as modified and amended and the request for Concurrent Variance be approved in order that the Applicant be able to proceed with the lawful use and development of the Property.

APPLICANT:

LENNAR MULTIFAMILY INVESTORS, LLC

By:

Chris Cassidy

Its: Division President

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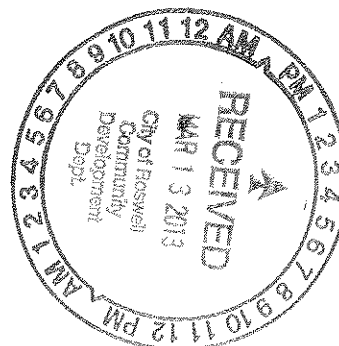


Exhibit "A"

APPROPRIATENESS OF APPLICATION
AND
CONSTITUTIONAL ASSERTIONS

A denial of this request for Conditional Use Permit would constitute arbitrary and capricious act by the Roswell City Council without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Roswell City Council to approve this Conditional Use Permit as proposed by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any approval of this Conditional Use Permit subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject Property would also constitute an arbitrary, capricious and discriminatory act and likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

Any approval of this Conditional Use Permit Application without the simultaneous approval of the Concurrent Variance requested would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

