DEVELOPMENT CONDITIONS

SE-2009-LE-001

November 16, 2009

If it is the intent of the Board of Supervisors to approve SE 2009-LE-001 in the name of Bhagat, located at Tax Map No. 81-4 ((16)) 19, 20, 21, and 22 to permit an independent living facility pursuant to Sect. 9-301(4) of the Zoning Ordinance, then staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.

3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by DPWES. Any plan submitted pursuant to this Special Exception shall be in substantial conformance with the approved Special Exception Plat entitled "Walhaven Woods Plat of Special Exception" prepared by Urban, Ltd., and dated October 2008, revised through August 3, 2009 and these conditions. Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

4. Frontage improvements of sidewalk, curb and gutter shall be provided along the Clames Drive frontage of the site as determined by the Virginia Department of Transportation (VDOT).

5. Pedestrian connections including five-foot (5') wide sidewalks, asphalt trails, and fitness trail shall be constructed as shown on the SE Plat.

6. All parking for the site shall be provided on site.

7. The independent living facility shall be accessed via a private street connection from Clames Drive. Written notification shall be provided to all initial purchasers specifying that the Condominium Owners' Association will be responsible for the maintenance of the private roads on the site prior to entering into a contract of sale. This maintenance responsibility shall also be disclosed within the Condominium Owners' Association documents. An initial reserve fund of $7,500 for maintenance and replacement for private streets shall be established by the applicant.

8. Individual units in the independent living facility shall be occupied only by individuals 55 years of age or older or couples where the husband or wife is 55 years of age or

older and or persons with handicaps, as defined in the Federal Fair Housing Act Amendments of 1988, who are eighteen (18) years of age or older and with a spouse and/or caregiver. Anyone who qualifies to reside in the independent living facility under the restrictions described above may have a live-in caregiver(s).These restrictions shall be incorporated into the association documents that will govern this property.

9. Each independent living unit shall meet the definition of a dwelling unit per the Zoning Ordinance and shall include a kitchen. The units shall be constructed in accordance with Americans with Disabilities Act (ADA) and Federal Housing Act (FHA) requirements for housing for seniors. All public areas and public doorways shall be wheelchair accessible. All resident units shall be FHA adaptable and have lever hardware, doorways wide enough for wheelchairs, low profile thresholds, an emergency call system, large print unit identification system, non-glare lighting and structural blocking within the unit bathrooms to accommodate ready conversion to an adaptable unit. The initial purchaser shall have the option to include accessible features within the unit such as railings, grab bars, accessible kitchen and bathroom features.

10. The architectural design of the buildings shall be in substantial conformance with the style and character of the building elevations depicted on Sheet 4 of the SE Plat.

11. The maximum building height shall be 35 feet as defined in the Zoning Ordinance.

12. Prior to issuance of the first Residential Use Permit (RUP) a reserve fund of $10,000 shall be established as an initial investment for a transportation fund. The transportation fund shall be reflected as a continuing line item in the COA budget. The purpose of the fund shall be to support shared transportation for the residents via cabs, rented vans, carpools and other methods of transportation.

13. following amenities shall be built for, owned by and maintained by the homeowners association on the property: a clubhouse building which shall include but not be limited to a multi-purpose room for meetings, an exercise area, a serving kitchen, a business center with computer, printer, copier and fax, community storage, and an area for community pantry and/or library, a walking trail with exercise stations, picnic areas, a storage shed for bikes, and a garden area. Indoor common areas in the clubhouse shall be wheelchair accessible through features such as, but not limited, to low pile carpeting, low profile thresholds, lever door hardware, non-glare lighting. Bathrooms that serve the common building shall be fully accessible. All facilities of the development shall be solely for the use of the residents, employees and invited guests, but not for the general public. The clubhouse building shall also employ passive solar design.

14. A contribution of $1,395 per unit ($44,640) shall be submitted to the Fairfax County Park Authority at the time of Subdivision plan approval, for its use in establishing and maintaining parks and recreational facilities in the Lee District. The contribution

amount shall be adjusted by increases to the Marshall and Swift Building Cost Index from the date of the Board of Supervisor's approval of this special exception application to the date of Subdivision plan approval.

15. The maximum number of independent living units shall not exceed 32.

16. Stormwater Management and Best Management Practices Facilities in accordance with the Public Facilities Manual (PFM) shall be provided in substantial conformance with the SE Plat, unless waived by DPWES. If the SWM/BMP facilities approved by DPWES are not in substantial conformance with SE Plat, a Special Exception Amendment shall be required.

17. Adequate Outfall shall be demonstrated in accordance with the Public Facilities Manual (PFM) as determined by DPWES at the time of site plan review.

18. Prior to site plan approval, if required by DPWES, and in accordance with the provisions of the PFM, the Applicant shall submit a geotechnical study of the Application Property to the Geotechnical Review Board through DPWES and shall incorporate appropriate engineering practices as recommended by the Geotechnical Review Board and DPWES to alleviate potential structural problems, to the satisfaction of DPWES. The recommendations of the Geotechnical Review Board shall be implemented.

19. The limits of clearing and grading shown on the SE Plat shall be strictly conformed to during all phases of site plan approval and construction on the site.

20. A landscape plan shall be submitted as part of the first and all subsequent submissions of the site plan and shall be coordinated with and approved by the Urban Forest Management Division (UFMD), DPWES. This plan shall be in substantial conformance with the landscape concepts plan as to quantity and quality of plantings, and in substantial conformance with the location of plantings as shown on sheet 6 of the SE Plat and these development conditions.

21. A tree preservation plan shall be submitted as part of the first and subsequent site submissions as follows.

    A. Tree Preservation: A Tree Preservation Plan and Narrative shall be submitted as part of the first and all subsequent site plan submissions. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of the Urban Forest Management Division, DPWES.

    The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 8 inches in diameter and greater (measured at 4 ½ -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide

for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the limits of clearing and grading. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the SE Plat, and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0506 and 12-0508. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

B. Tree Preservation Walk-Through. A certified arborist shall be retained, and shall mark the limits of clearing and grading with a continuous line of flagging prior to the walk-through meeting. During the tree-preservation walk-through meeting, the certified arborist shall walk the limits of clearing and grading with an UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. A representative from the Lee District Land Use Committee shall be invited to participate in the tree-preservation walk-through. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.

C. Limits of Clearing and Grading. The limits of clearing and grading shall be strictly conformed to as shown on the SE Plat, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the SE, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities.

D. Tree Preservation Fencing: All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" proffer below.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES.

E. Tree Appraisal: A professional arborist with experience in plant appraisal shall be retained, to determine the replacement value of all trees 8 inches in diameter or greater located on the Application Property that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective site plan(s). The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plan Appraisal published by the International Society of Arboriculture, subject to review and approval by UFMD.

At the time of the respective site plan approvals, a cash bond or a letter of credit payable to the County of Fairfax shall be posted to ensure preservation and/or replacement of the trees for which a tree value has been determined in accordance with the paragraph above (the "Bonded Trees") that die or are dying due to unauthorized construction activities. The letter of credit or cash deposit shall be equal to 50% of the replacement value of the Bonded Trees. At any time prior to final bond release for the improvements on the Application Property constructed adjacent to the respective tree save areas, should any Bonded Trees die, be removed, or are determined to be dying by UFMD due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent size, species and/or canopy cover as approved by UFMD. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized construction activity. This payment shall be determined based on the Trunk Formula Method and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the bond for the improvements on the Application Property constructed adjacent to the respective tree save areas, any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant.

F. Root Pruning. The roots shall be pruned, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by the UFMD, DPWES, accomplished in a manner that protects affected and

adjacent vegetation to be preserved, and may include, but not be limited to the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- Root pruning shall be conducted under the supervision of a certified arborist.
- An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

G. Demolition of Existing Structures. The demolition of all existing features and structures within areas protected by the limits of clearing and grading shown on the SE shall be done by hand without heavy equipment and conducted in a manner that does not impact individual trees and/or groups of trees that are to be preserved as reviewed and approved by the UFMD, DPWES.

H. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by the UFMD. The Applicant shall retain the services of a certified arborist to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFMD approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES.

22. A condominium owners' association (COA) shall be established for the proposed development to own, manage and maintain open space areas and all other community owned land and improvements, including, but not limited to the clubhouse, private streets and on-site trails.

23. An individual or individuals shall be designated by the COA to provide transit maps, schedules and forms, ridesharing and other relevant transit option information available, to residents and provide other services including scheduling group activities and appointments for the residents of the independent living facility.

24. At the time of closing for each unit, each buyer shall be provided with half the purchase cost of two "Smart Phones" or equivalent devices with a GPS system, in order to promote/facilitate ride sharing and errand exchange among residents of the independent living facility.

25. Prior to the issuance of the 10th Residential Use Permit (RUP), it shall be demonstrated that the independent living facility is designed to include a conduit to provide for the installation of information and communications technology that can operate throughout

the proposed development and that can connect to remote locations and networks in order to allow the development to be equipped to provide for applications such as a WiFi network, LAN or similar method as an additional method to encourage communication and promote sharing of goods, services and information. This condition shall not require the applicant to equip the development with any particular application.

26. Each upper unit shall have a ground floor entrance and include a personal elevator.

27. A covenant shall be placed on each residential lot that prohibits the use of the garage for any purpose, which would preclude storage of any motor vehicles owned by the residents of that unit. This covenant shall be recorded among the land records of Fairfax County prior to the sale of lots and shall run to the benefit of the COA and to the Board of Supervisors. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's office. The COA documents shall expressly state this use restriction.

28. A storage area for at least five (5) bicycles or Segways shall be located in or near the clubhouse.

29. Prior to the issuance of the 1st Residential Use Permit (RUP), three (3) bicycles and two (2) Segways or similar motorized vehicles shall be provided to the community by the applicant, for free use by residents of the independent living facility.

30. Prior to the issuance of residential use permits for 75% of the market rate units, the required number of affordable dwelling units (ADUs) shall be provided in the development in accordance with the applicable provisions of Part 8 of Article 2 of the Zoning Ordinance, unless waived or modified by the ADU Advisory Board and shall be administered in accordance with the applicable provisions of Part 8 of Article 2 of the Zoning Ordinance. If the Zoning Ordinance is amended to delete the requirement that ADUs be provided in independent living facilities or 50 units or less, then no ADU units shall be required.

31. At the time of site plan review, a request to provide a painted crosswalk across Lake Village Drive at a point where the proposed onsite trail meets Lake Village Drive, shall be submitted to the Virginia Department of Transportation . Documentation of this request shall be submitted to DPWES. If approved by VDOT, the crosswalk shall be installed prior to the issuance of the first Residential Use Permit (RUP) for the site.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

The approval of this special exception does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

Pursuant to Section 9-015 of the Zoning Ordinance, this Special Exceptions shall automatically expire, without notice, thirty (30) months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the Special Exception. The request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.