

APPROVED DEVELOPMENT CONDITIONS

SE 2020-DR-012

MAY 3, 2021

The Board of Supervisors (Board) approved Special Exception SE 2020-DR-012 for an Independent Living Facility ("ILF") located at Tax Maps 30-3 ((1)) 53A and 53B, under Sect. 9-306 of the Zoning Ordinance, and conditioned the approval subject to 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. The Applicant includes the current owner of the property and any successor(s)-in-interest.
2. This Special Exception is granted only for the purposes, structures and uses shown on the special exception plat entitled "Chain Bridge Estates, Special Exception Plat, SE 2020-DR-012" prepared by RC Fields & Associates, Inc. consisting of 16 sheets and dated June 2020, as revised through January 4, 2021 (SE 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 Land Development Services (LDS). Any plan submitted under this Special Exception must be in substantial conformance with the approved SE Plat 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. As depicted on the SE Plat, fee simple lots are not permitted.
5. Formation of Condominium Owner Association. Prior to the issuance of the first Residential Use Permit (RUP), the Applicant must establish a Condominium Unit Owners Association (COA) in accordance with Virginia law. All units must be part of the COA. Purchasers of individual condominium units must be advised prior to entering a contract of sale, and in the COA documents, that the COA and the unit owners will be responsible for the obligations and restrictions listed in these conditions.
6. Dedication to COA. Common areas shown on the SE Plat must be deeded to the COA at the time of record plat recordation.
7. Occupancy Requirements.
 - A. Age Restriction. All of the units must be occupied by at least one person who is 60 years of age or older; however, a surviving spouse under age 60 will be allowed to continue occupying a unit for a limited period not to exceed one year, as established by the Condominium's covenants, as long as the ILF remains in compliance with all applicable federal, state, and local laws. All of the units on the Property will collectively compose the ILF use. The ILF must be operated in compliance with these conditions and all applicable federal, state, and local

laws, including 42 U.S.C. § 3601 *et seq.*, as amended, including the Fair Housing Amendments Act of 1988 (FHAA) and the Federal Housing for Older Persons Act of 1995 (HOPA), and as implemented by HUD regulations at 24 C.F.R part 100.300 to 100.308 (collectively, the FHA), the Fairfax County Zoning Ordinance, and the Code of the County of Fairfax, Virginia.

Covenants must be executed and must require the COA and all unit owners and unit occupants to comply with the occupancy requirements described in these conditions and with all applicable federal, state, and local laws, including the FHA, and must permit the COA and any unit owner to enforce the covenants in any manner permitted by law; such covenants must be recorded among the land records of Fairfax County as part of the declaration of covenants prior to the sale of any units and must run to the benefit of the COA and any unit owner.

- B. Policies, Procedures, and Rules. The COA will establish and adhere to policies, procedures, and rules as necessary to monitor and maintain compliance with these conditions, including, but not limited to, compliance with the FHA, as amended. The COA will provide a copy of such policies, procedures, and rules to the County when they are established and at the time of any update, change or modification. The COA will also distribute such policies, procedures, and rules, in addition to the COA's governing documents, to each Owner within 30 days of sale and subsequently as the policies, procedures, and rules are updated, changed, or modified. The COA will also publish such policies, procedures, and rules and make copies available to owners, tenants, prospective purchasers, and the County upon request.
- C. Compliance. The COA will be responsible for maintaining records to support and demonstrate compliance with the FHA as amended. The COA must execute an affidavit certifying that, in the previous year, the COA collected the age verification documentation described in 24 C.F.R § 100.307. That affidavit must be submitted to the Zoning Administrator to demonstrate compliance with this Condition 7 annually.
- D. Notification of Change in Occupancy. The declaration of covenants must provide that in the event of any change in occupancy of any unit, the Owner of the unit will immediately: (1) notify the COA in writing of the names and ages of all current occupants of the unit; and (2) provide the COA with documentation reasonably required to verify the age of each occupant.
- E. Enforcement. The declaration of covenants will provide that the COA will enforce these conditions and may do so in any manner permitted by law. The declaration will also provide that each Owner must fully and truthfully respond to any request from the COA for information regarding the occupancy of his or her unit that is reasonably necessary to monitor compliance with these conditions. The declaration will further provide that each Owner must execute and record, in accordance with Virginia Code § 64.2-1603 and §§ 55.1-600 and 55.1-605, a power of attorney appointing the COA as its attorney-in-fact for the purpose of

taking legal action to dispossess, evict, or otherwise remove the occupants of his or her unit as necessary to enforce compliance with these conditions.

- F. Interpretation. Any interpretation or application of these conditions must be consistent with the applicable requirements of all federal, state, and local law, including the FHA.
8. Community Management Company. A community management company with experience in the management of age-restricted housing is to be utilized.
 9. Community Manager. There must be an on-site employee, who will, at a minimum, coordinate group activities, manage the use of the clubhouse facilities, coordinate group meals and transportation services, and monitor the grounds and the use of the open space. This employee may or may not be a separate employee of the community management company.
 10. Clubhouse Building. The clubhouse building must include a dedicated room for nurse, physician and/or therapy appointments and will contain senior amenities such as:
 - General multi-purpose rooms
 - Indoor warm water aquatic/therapy pool
 - Massage room
 - Fitness center
 - Catering kitchen and bar area
 - Community library area
 - Area for an art studio for group workshops or individual work
 - Pet grooming area
 - Outdoor gathering area with seating, a pergola, and a firepit
 11. Home Health Care. A home health care service who can provide health services to residents and provide health educational seminars related to the 60+ population is to be utilized.
 12. Home Buyer Disclosures. Prospective purchasers must be notified in writing of the community management company, the minimum age requirement for occupancy, the COA's responsibility for maintenance of any common elements, and the current year's projected COA fees.
 13. Streets, Sidewalks, and Trails. On-site streets and alleys, sidewalks and trails will be private and will be owned and maintained by the COA. Maintenance responsibilities for private streets and alleys, sidewalks and trails, including snow removal, must be disclosed in the COA documents.

14. Reservation of Right-of-Way. The Applicant will reserve an area along the Property's Chain Bridge Road frontage near the entrance, as shown on SE Plat, for the purpose of locating infrastructure associated with a future traffic signal at the intersection of Davidson Road and Chain Bridge Road. The Applicant must dedicate this land at no public cost upon demand of Fairfax County or Virginia Department of Transportation. No structures or physical improvements will be placed in the reservation area identified on the SE Plat.
15. Parking.
 - A. Two parking spaces on the property will be reserved for staff and outside service personnel, Monday through Friday, 8:00 a.m. to 6:00 p.m.
 - B. Language that discourages resident and guest parking on Fern Oak Court, Hornet Lane, and Audmar Drive is to be included within the home buyer's disclosures and must be periodically reiterated in correspondence to the residents from the COA.
16. Pedestrian Improvements. Prior to issuance of the first residential use permit, the Applicant will construct a pedestrian network generally as shown on the SE Plat. The COA will maintain sidewalks and/or trails in common areas. The maintenance responsibilities for sidewalks and/or trails will be disclosed in the COA documents. Notwithstanding what is on the SE Plat, the trail to be constructed along the Chain Bridge Road frontage will be an eight-foot-wide concrete sidewalk.
17. Bus Shelter. Prior to the issuance of a building permit, and notwithstanding that shown on the SE Plat, the Applicant will construct a bus shelter and pad at a location along the frontage of the subject Property, to be determined by Fairfax County Department of Transportation (FCDOT), Fairfax County Transit Services, and the Virginia Department of Transportation (VDOT). If infeasible, as determined by these agencies, prior to the issuance of a building permit, the Applicant will contribute \$25,000 to Fairfax County to improve pedestrian access to a bus stop in the area.
18. Garages. Any conversion of garages that will preclude the parking of vehicles and the storage of trash and recycling containers within the garage is prohibited. Owners will be required to store trash and recycling containers within the garage except on collection days. This restriction will not preclude the use of garages as sales offices in the model homes during marketing of the development, with the understanding the sales offices will be converted back to garages upon sale of the models. A covenant setting forth these restrictions will be recorded among the land records of Fairfax County prior to the sale of any units and must run to the benefit of the COA. Prospective purchasers will be advised of these restrictions and the interior dimensions of the garage, in writing, before entering into a contract of sale. These restrictions and the interior dimensions of the garages will be included in the marketing materials for the initial sales of units on the Property and in the COA documents to provide notice to prospective purchasers in connection with future resales of the units.

19. Building Elevations. The units must be generally consistent with the elevations and included on the SE Plat.

20. Universal Design.

A. At the time of initial purchase of the single family attached and “2 over 2” units, the Applicant will make available upon request to each purchaser the following Universal Design options at no additional cost:

1. Blocking for reinforcement of grab bars in accordance with the Fair Housing Accessibility Guidelines.
2. Front entrance doors that are a minimum of 36 inches wide.
3. Light switches and thermostats a maximum of 48 inches high, as measured from the floor to the bottom of the fixture.
4. Electrical outlets a minimum of 15 inches high, as measured from the floor to the bottom of the fixture.

B. At the time of initial purchase, for single family attached and “2 over 2” units, the Applicant must make available to each purchaser the following Universal Design options at the purchaser’s sole cost:

1. A step-less entry from the garage to the house to the extent permitted by the then current edition of the Virginia Statewide Building Code and to the extent lot and site grading conditions allow for at least 50 percent of the homes constructed.
2. A shower, if provided, with a maximum curb of 2 inches high.
3. Smoke alarms with added strobe lights for hearing-impaired residents
4. Lever door handles and faucets instead of knobs.
5. Clear knee space of 27 inches under the kitchen sink.

21. Landscape Plan. The SE Plat includes a conceptual landscape plan for the Property and detail sheets illustrating the plantings and other features to be provided. As part of each site plan submission, the Applicant must submit to Urban Forest Management Division (UFMD) of DPWES for review and approval a detailed landscape plan (the "Landscape Plan"), which must be consistent with the quality and quantity of plantings and materials shown on the SE Plat, to include native and non-invasive vegetation. Adjustments to the type and location of vegetation and the design of landscaped areas are subject to the review and approval by UFMD. Additionally, in the vicinity of the clubhouse along the property line shared with Tax Map 30-3 ((9)) 119, supplemental vegetation to include green giant arborvitae, or a comparable species as approved by UFMD, will be installed to maximize visual screening.

22. Fence. Notwithstanding that which is on the SE Plat, a six-foot tall wood fence will be constructed along the property line shared with Tax Map 30-1 ((13)) 12 and will extend to connect to the proposed seven-foot-tall wall in the northwest corner of the Property. The fence will contain a gate to allow access to the stormwater management facility for maintenance purposes.

23. Outdoor Patio Regulations. The COA will enforce the following hours for the use of the outdoor patio area: Sunday through Thursday 9:00 a.m. to 9:00 p.m. and Friday and Saturday 9:00 a.m. to 10:00 p.m. There will be no renting out of the clubhouse or patio area to anyone outside of the auspices of the COA. There will be no audible music in the patio area.

24. Stormwater Management. Stormwater management and best management practice ("SWM/BMP") facilities will be provided as generally depicted on the SE Plat. The final type, location, sizing, and performance of the specific SWM/BMP facilities will be as approved by Land Development Services (LDS) provided the design is in general conformance with the SE Plat. The Applicant is to provide as much water quality treatment on-site, as feasible, at time of site plan. The large trees are not to be planted close to the facility as this may impact safe operation and maintenance. The detailed planting plan will be reviewed with the site plan in coordination with the UFMD.

25. Green Building. In support of energy conservation and green building techniques; the Applicant, in consultation with the Environment and Development Review Branch (EDRB) of the Department of Planning and Development (DPD), must seek certification for this development from one of the following programs that offers third-party review of "green building" or energy efficient measures for the single family attached dwellings on the Property.

- A. Certification in accordance with the Earth Craft House Program as demonstrated through documentation provided to LDS and EDRB prior to the issuance of the RUP for each dwelling; or
- B. Certification in accordance with the National Green Building Standard (NGBS) using the ENERGY STAR® Qualified Homes path for energy performance, as demonstrated through documentation submitted to LDS and EDRB from a home energy rater certified through Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification prior to the issuance of the RUP for each dwelling; or
- C. The Applicant reserves the right to utilize an equivalent program in consultation with and approved by the Environmental and Development Review Branch of the DPD prior to the issuance of the first building permit for that dwelling unit.

26. Design of Units.

- A. All dwelling units must be designed to allow for one level living and/or be designed to allow for the installation of an elevator. One level living is such that all the activities of daily living (i.e., bedroom, kitchen, bath) will occur on one level of the unit.
- B. The Applicant must offer initial purchasers the option, at the purchaser's cost, to install electrical panels for electric vehicle charging in the garage. In the event initial purchasers do not opt to have an electric vehicle charging station installed

in the garage during initial construction, all electrical panels must be sized to accommodate future installations, to allow subsequent purchasers to more readily install an electric vehicle charging station.

C. All dwellings must be equipped with a home automation system.

27. Construction Access and Parking. Construction vehicles may only access the property through the entrance on Chain Bridge Road. Access from Fern Oak Court is prohibited. All construction vehicles must park on-site.
28. Maintenance Manual. Prior to issuance of the first Residential Use Permit, the Applicant will produce an operation manual that will include: a written description of the proper maintenance of the approved stormwater management system in accordance with the Fairfax County Public Facilities Manual and County guidelines, a detailed description of the proper maintenance of other common elements for which the COA is responsible, a summary of the occupancy requirements and limitations within the development conditions and the covenants, a summary of the responsibilities of the management company as outlined in the special exception development conditions, and the inclusion of all governing approval documents associated with this special exception. This manual will be distributed to the COA and its management company.
29. Training. Each member of the COA Board of Directors will participate in training related to the management of the association upon election to the Board, to be provided by the Management Company described in these Development Conditions.
30. Zoning Administrator Consideration. Under Section 9-015 of the Zoning Ordinance, this special exception will automatically expire, without notice, 30 months after the date of approval unless 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 before expiration of the special exception. The request must specify the amount of additional time requested, the basis the time requested, and an explanation of why additional time is required.

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

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