

PROPOSED DEVELOPMENT CONDITIONS

SE 2013-MV-015

April 22, 2014

If it is the intent of the Board of Supervisors to approve SE 2013-MV-015, located at 10820 Anita Drive, Tax Map 117-2 ((2)) 59, for uses in a floodplain pursuant to Sect. 2-904 and 9-606 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

General

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. Notwithstanding the structures and uses indicated on the Special Exception Plat (SE Plat), the applicant may disturb land, demolish existing structures, and/or construct improvements on acreage that is within the Resource Protection Area (RPA) but outside of the 100-year floodplain without submitting a Special Exception Amendment application as long as the applicant obtains the approval of a Water Quality Impact Assessment (WQIA) and demonstrates to the Department of Public Works and Environmental Services (DPWES) that there shall be no adverse impact to the floodplain. The applicant may not allow any new structures, land disturbance, or removal of vegetation within the floodplain without submitting and obtaining the approval of a Special Exception Amendment. Maintenance activity associated with landscaping shown on an approved grading plan within the floodplain shall not require a Special Exception Amendment.
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 "Special Exception | Lot 59 | Harbor View" prepared by Dominion Surveyors, Inc., which is dated January 5, 2011 and revised through December 23, 2013, and these conditions. Minor modifications to the approved Special Exception Amendment may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.
4. Upon demonstration by the applicant that, despite diligent efforts or due to factors beyond the applicant's control, the applicant will be or has been delayed in the completion of one or more of the obligations or improvements required by these conditions beyond the timeframes set forth in these conditions, the Zoning Administrator may agree to a later date for the fulfillment/completion of such obligations or improvements, provided the applicant otherwise is in substantial conformance with these conditions.

5. Prior to the approval of a grading plan, site plan, or minor site plan, a Hold Harmless agreement shall be executed with the County for any adverse effects resulting from the location of the site within a floodplain area.
6. Within 30 days of this Special Exception's approval, the applicant shall submit a WQIA and a grading plan to DPWES for the improvements shown on the SE Plat. Within 6 months of this Special Exception's approval, the applicant shall obtain WQIA approval and grading plan approval from DPWES.
7. Concurrent with the first submission of any grading plan, site plan, or minor site plan, the applicant shall submit an additional copy of the plan to the Fairfax County Federal Emergency Management Agency (FEMA) Floodplain Administrator (Stormwater Planning Division) to determine whether the base flood elevation in any Special Flood Hazard Area (SFHA) depicted on the County's Flood Insurance Rate Map (FIRM) would be altered as a result of any new construction, substantial improvements, or other development shown on the plan, including fill. If the County FEMA Floodplain Administrator determines that the base flood elevation would be altered, the applicant shall submit technical or scientific data to FEMA for a Letter of Map Revision. If the projected increase in the base flood elevation is greater than one foot, the applicant shall also obtain approval of a Conditional Letter of Map Revision from the Federal Insurance Administrator prior to the approval of any construction. If the applicant is required to submit either a Letter of Map Revision and/or Conditional Letter of Map Revision as outlined above, the applicant shall submit a copy of the approval letter from FEMA to the Department of Planning and Zoning (DPZ).
8. Within 30 days of the Special Exception's approval, the applicant shall submit an agreement or suitable documents to the County Attorney's office for review and approval. The agreement or suitable documents shall be recorded prior to grading plan approval. The agreement shall notify future owners of 117-2 ((2)) 59 that the land is subject to an approved Special Exception, SE 2013-MV-015.

Landscaping

9. Notwithstanding the landscaping shown on the Special Exception Plat, the location and species of the proposed plantings shall be subject to the review and approval of the Urban Forest Management Division (UFMD). The applicant's landscape plan that accompanies the WQIA and grading plan shall provide a minimum of 85% of the plant material in native species. UFMD may approve a lower minimum percentage of native species if the applicant can demonstrate that limited product availability would unnecessarily delay the establishment of the landscaping. No plant species designated as highly invasive on the Virginia Department of Conservation and Recreation's (DCR's) Invasive Plant List may be included in the landscape plan.
10. The applicant shall include an invasive species removal plan with the WQIA and grading plan. This plan shall detail the applicant's strategy for removing any invasive species from the disturbed area identified on the SE Plat prior to new planting, and preventing the return of invasive species during the first three growing seasons, as defined in Condition #15. In particular, efforts to eliminate hazards and manage invasive plants in forested areas shall be implemented in a careful manner that minimizes disruption to the vegetation and soil conditions present and proposed in

the floodplain. The invasive species removal plan shall be reviewed and approved by UFMD per the standards set forth in the Public Facilities Manual (PFM) in conjunction with the WQIA and grading plan.

11. Due to the pervasive nature of and difficulty in eradicating Japanese stiltgrass (*Microstegium vimineum*), the applicant may elect to omit this species from those identified for removal in the invasive species removal plan if it is found on the subject property.
12. Prior to planting the landscaping shown on an approved grading plan, the applicant shall apply a 2-inch layer of compost to the 7,248 square foot area shown on the SE Plat that was previously disturbed. The compost shall be leaf-based and originate from a provider who can certify that the compost is free of invasive species and weeds. No fertilizers or manures shall be applied to or incorporated into the compost. If deemed necessary by DPWES during the grading plan and WQIA review, the applicant shall provide erosion and sediment control measures to prevent compost from washing away from the site during a rain event per the standards set forth in the PFM. Such measures may include, but not be limited to, a wire-reinforced silt fence or other types of silt fencing.
13. If any matting is to be used for the proposed plantings, it shall be made of coir or straw as opposed to synthetic products to avoid any hazards to nearby wildlife.
14. Landscaping in the RPA shall be installed within 90 days of the WQIA approval unless the UFMD determines a later planting date is necessary to ensure the health of the landscaping.
15. Should any pesticides be used for invasive plant removal, the pesticides shall be administered by a Virginia Certified Pesticide Applicator. It shall be the applicant's and/or the Certified Pesticide Applicator's responsibility to secure any necessary permits for the use of pesticides and for application of pesticides in the RPA.
16. The applicant shall employ a Certified Arborist, Registered Consulting Arborist, or Certified Horticulturalist to manage and oversee the implementation of the landscape plan. The landscape consultant shall perform the following monitoring duties:
 - a) Phase I: This landscape consultant shall visit the site and inspect the plant material for quality, establishment, and growth of the plants shown on the approved grading plan on a monthly basis for the first and second growing seasons and provide an update report to UFMD for each visit. The report shall assess the progress on the landscaping's establishment and growth and identify the presence of any invasive species. The growing season is defined as May 1-September 30 in a calendar year. Any dead plants or invasive species that are identified by the landscape consultant during his or her site visits shall be removed. The applicant shall replace any dead plants that were shown on the approved grading plan. The applicant and/or the landscape consultant shall follow the recommendations of UFMD in accordance with the PFM for how and when the replacement plants shall be reestablished.
 - b) Phase II: The applicant and the landscape consultant shall schedule a site visit with a UFMD staff member during the third and fourth growing seasons beyond

the first. In the event that UFMD determines that plant coverage has been reduced from that shown on the approved grading plan, the applicant shall provide replacement plants so that the plant coverage will be restored to the originally approved coverage requirement. The applicant shall follow the recommendations of UFMD in accordance with the PFM for how and when the replacement plants shall be reestablished, if needed.

- c) If at any time during the Phase I or Phase II monitoring periods UFMD determines that plant coverage has been reduced below 50% of that shown on the approved grading plan, the applicant's landscaping consultant shall reinitiate the Phase I monitoring provisions and restart the monitoring period.
- d) After the completion of the Phase I and Phase II monitoring periods, any replanting or maintenance of landscaping shown on the approved grading plan shall be in accordance with the Chesapeake Bay Preservation Ordinance (Chapter 118 of the Fairfax County Code).

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

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 himself responsible for obtaining the required Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, 12 months after the date of approval unless, at a minimum, the use has been established or construction has commenced and been diligently prosecuted as evidenced by the issuance of an approval for a grading plan concurrent with a Water Quality Impact Assessment. 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.