



**PLANNING COMMISSION
MEMORANDUM**

TO: Planning Commission Members
VIA: William R. Pittman, Jr., Acting Planning Commission Administrator
Carolyn V. Sunderland, Acting Planning Commission Secretary
FROM: Bobbie Hutchison, Planner
DATE: April 21, 2010 Regular Meeting
SUBJECT: Age-Restricted Housing in Calvert County, status

The attached chart was prepared in response to your request for information on age-restricted housing development in the County. The specific questions answered include a list of developments, the number of units, which ordinance was applied, and the stage of each development.

Attached-Housing Development/Condos

There are four pending development applications in various stages of review, with no final approvals (and therefore no possible construction). These applications are subject to three different Zoning Ordinance provisions on age-restriction effective 9/30/03, 5/1/06 and 7/1/06:

9/30/03 – “restrict occupancy to elderly persons (over 55)” and receive exemptions from school adequacy, excise tax, and TDRs for density. No minimum of units required.

5/1/06 – Introduces new stipulations for age-restricted housing communities under CCZO 5-5. Specifies a minimum number of 20 units and all units must be accessible or handicapped adaptable. Age-qualification is revised/lowered. Receive exemptions from school adequacy and excise tax. Exemption from TDR purchase for age-restricted housing density ends July 1, 2006.

Prince Frederick and Solomons Town Center Ordinances, “The use of TDRs shall not be required for age-restricted housing developments that comply with Section 5-5 of the CCZO and which are **properly submitted prior to July 1, 2006.**”

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After July 1, 2006 – TDRs required to achieve maximum density for age-restricted as well as general housing.

Attached-Housing Development/Rentals

The attached-housing rental units are completely built-out and occupied with waiting lists.

Single-Family Homes Subdivisions or Condos

The detached, single-family homes subdivisions have all lots recorded, and all were subject to Zoning Ordinance provisions prior to the current May 2006 Zoning Ordinance. All of the subdivisions contain occupied housing except for two, Magnolia Landing and Harbours at Solomons, both of which obtained mass-grading permits but have no issued building permits as of this date.

(Tapestry North is a detached-housing condominium, which was exempt from density, school adequacy and excise taxes, as replacement of existing housing stock. 23 mobile homes and one house were replaced by 22 modular units.)

Attached worksheet
CVS/blh

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CALVERT COUNTY AGE-RESTRICTED HOUSING		(Twin Beaches excluded)			
Attached Housing Development/Condos					
	File No.	Ordinance	Final	Units	Construction
Chapline South 144 age-restricted apts & 30 general townhouses	SPR 2005-38	9/30/03	no final	174	none
Villages of Calvert Apts (July 1, 2006 exemption from TDRs)	SPR 2006-20	5/1/06	no final	340	none
Villages of Calvert Townhouses (July 1, 2006 exemption from TDRs)	SPR 2006-21	5/1/06	no final	28	none
Skipjack Quay Townhouses (desired age-restriction but is less than 20 units)	SPR 2006-38	5/1/06	no final	18	none
Attached Housing Development/Rentals					
Prince Frederick Elderly Apts	SPR 85-02	5/8/84	11/20/1985	30	complete
Calvert Pines Phase I	none	6/29/67	1/1/1979		complete
Calvert Pines Phase II	SPR 89-59	5/8/84	12/22/1989	51	complete
Southern Pines	SPR 95-09	5/8/84	8/16/1995	76	complete
Chapline House I	SPR 2000-59	5/8/84	8/15/2001	60	complete
Chapline House II	SPR 2003-32	5/8/84	3/30/04	30	complete
Asbury Phase I	SPR 94-5	5/8/84	10/12/1994	208	complete
Asbury Phase II (300 total)	SPR 99-26	5/8/84	4/6/2000	92	complete
Single-Family Homes Subdivisions or Condos					
			Recorded		
Tapestry North Condominium (age-restricted by owner's choice)	SPR 2002-31	exempt	4/30/2004	22	complete
Ben Garner Active Adult Community, Sol TC	SD 03-07	prior May 06	10/29/2003	17	complete
Bright Farms, PF TC	SD 02-24	prior May 06	11/15/2005	11	3 occupied
Magnolia Landing, PF TC	SD 01-14B	prior May 06	9/23/2005	112	grading-no BP
Southgate, PF TC	SD 02-10A	prior May 06	3/25/2005	26	occupied
Backcreek Woods, Sol TC	SD 03-21	prior May 06	4/20/2006	11	2 occupied
Harbours at Solomons, Sol TC	SD 02-08A	prior May 06	5/08 & 4/09	251	grading-no BP

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**PLANNING COMMISSION
MEMORANDUM**

TO: Planning Commission Members

FROM: Robert S. Cohn, AICP, Planning Commission Administrator **RC**

DATE: March 10, 2010

RE: SD 03-07, Ben Garner – Age Restriction

Background

The President of the Board of Directors for the Ben Garner Community, a senior housing project, has submitted a letter of request to amend the minimum age requirement for their development, in accordance with the less restrictive provisions of the current ordinance. The applicant took this request to the Board of County Commissioners (BOCC) on October 27, 2009. The BOCC approved the request but also referred it to the Planning Commission for approval.

The Ben Garner subdivision was approved on 5/21/03. At that time the incentives for development of age-restricted housing (per the Calvert County Zoning Ordinance, the Solomons Zoning Ordinance and the Excise Tax Resolution), were different than what is in place now. Attachment 1 indicates significant changes.

Discussion

The issue that must be addressed by the Planning Commission in this request by The Ben Garner Community to amend their covenants, is whether any approval to change the age restriction must be conditioned on compliance with all the current requirements outlined within Attachment 1. This is a complicated matter necessitating legal advice from Mr. Yacovelle, so staff will defer to his judgment.

Recommendation

Action by the Planning Commission to either approve the request to amend the age restriction provision in the Ben Garner Covenants, or condition such approval on compliance with the current requirements outlined in Attachment 1.

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Attachment 1

2003 Requirements	Current Requirements
Exempt from Adequate Public Facilities Ordinance (APFO). If subject to APF and schools are not adequate, the APFO hold is 5 years.	Exempt from Adequate Public Facilities Ordinance (APFO). If subject to APFO and schools are not adequate, the APFO hold is 7 years.
Reduced excise tax from \$12,950 to \$5,150	Reduced excise tax from \$12,950 to \$5,150
Exempt from the purchase of TDR's	No exemption (except for bona fide affordable housing agency which may apply to BOCC for waiver) – <u>must</u> purchase five TDR's per lot/unit
No unit requirement for development	The development shall include at least 20 residential units.
No requirement for handicapped accessibility	All units shall be either handicapped accessible or handicapped adaptable.
All residents 55 years of age or older	All of the dwelling units are to be occupied by at least one Age-Qualified Resident
A declaration shall be recorded in Land Records and notes on the subdivision plat and/or site plan indicating: 1) that the project shall be for housing of individuals 55 years of age or older; 2) that if the project is converted to general housing, all units must be converted; and 3) that for every unit converted to general housing, the owner or developer shall use five TDR's.	Covenants shall be placed on the property that specify the age-restricted nature of the proposed community. The covenants shall provide: a) that all of the dwelling units are to be occupied by at least one Age-Qualified Resident; b) that up to two dwelling units may, at the discretion of the Age-Restricted Housing Community Association, be occupied by persons none of whom is an Age-Qualified Resident if at least one of the persons intended to occupy the dwelling unit is a Special Resident; c) that persons, at 19 but under 55 years of age, may reside in a dwelling unit provided the person reside with the Age-Qualified Resident or Special Resident in the dwelling unit prior to the death of the Age-Qualified Resident or Special Resident or prior to the placement of the Age-Qualified Resident or Special Resident in a facility for the care of the elderly or the disabled; d) That a person under 19 years of age may visit a dwelling unit as the guest of the occupants of a dwelling unit, provided that no person under the age of 19 may stay overnight in a dwelling unit for more than two consecutive weeks or for a total of more than 30 days in any 12-month period; e) That except as otherwise required by the federal Fair Housing Act, 42U.S.C. §§ 3601 et seq., the Maryland Fair Housing Law, Md. Code Ann., Art. 49B, §§ 19, et seq., no persons under 19 years of age may reside in any unit, except that a person under 19 years of age may reside in a unit occupied by a Special Resident; f) That any provision of the covenants pertaining to the age-restricted nature of the community may not be amended without the approval of the Board of County Commissioners; g) That none of the units may be converted to general housing unless: (a) conversion is approved by all unit owners, the Board of County Commissioners and the Planning Commission, (b) all of the units are converted, (c) all requirements of Section 7-1.05, Adequate Public Facilities, are met at the time of conversion, and (d) the building excise tax in effect at the time of conversion for the type of dwelling into which the units are converted shall be paid, less the amount of excise tax originally paid.

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