

RZ 2004-SP-036
Lee Chapel Road Property
PROFFER STATEMENT

April 1, 2005

Pursuant to Section 15.2-2303(A) of the Code of Virginia, as amended, and subject to the Fairfax County Board of Supervisors' (the "Board") approval of rezoning application RZ 2004-SP-036, as proposed, for rezoning from the R-1 District to the R-2 District, and the owner Sewan Enterprises, LLC (the "Applicant"), for himself and his successors and assigns, hereby proffer that development of Tax Map Parcel 88-1-((1))-28 containing approximately 1.01 acres, shall be in accordance with the following proffered conditions:

1. **Substantial Conformance.** The Property shall be developed in substantial conformance with the Generalized Development Plan ("GDP") consisting of three (3) sheets prepared by BC Consultants, entitled Lee Chapel Road Generalized Development Plan, dated August, 2004, revised through February 17, 2005 and as further modified by these proffered conditions.
2. **Minor Modifications.** Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications from the proffered GDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the GDP provided such changes are in substantial conformance with the GDP and proffers, and do not increase the total number of units.
3. **Maximum Density.** A maximum of 2 dwelling units shall be permitted on the Property.
4. **Energy Efficiency.** All homes constructed on the Property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by the Department of Public Works and Environmental Services ("DPWES") for either electric or gas energy homes, as applicable.
4. **Driveway Access Easement.** At the time of subdivision plan approval, the Applicant shall dedicate a driveway access easement across Lots 1 and 2 as shown on the GDP.
5. **Outlot C.** At the time of consolidation between the Property and the adjacent properties located at Tax Map Parcels 88-1 ((1)) 29 and 88-1((1)) 31B, the area reserved for lot width requirements for the adjacent property shown as Outlot "C" on the GDP, shall be conveyed in fee simple and at no cost to the property owners of Tax Map Parcels 88-1 ((1)) 29 and 88-1 ((1)) 31B.
6. **Outlot A and Outlot B.** At the time of subdivision plan approval, the Applicant shall create Outlots A and B as water quality management areas as shown on the GDP to preserve the existing vegetation and to provide undisturbed open space for the benefit of stormwater quality control requirements. No clearing or grading shall be permitted in Outlots A and B and additional plantings shall be provided as required by DPWES in consultation with the Urban Forest Management Branch. The said Outlots shall be deeded to the future purchaser of Lots 1 and Lot 2, respectively. A written disclosure outlining the existence and maintenance

responsibilities for the water quality management areas shall be placed in the contracts of sale and in the deed for each lot, and recorded in the land records of Fairfax County in a form approved by the County Attorney.

7. **Stormwater Management.** At the time of subdivision plan submission, the applicant intends to request a waiver of stormwater management and a partial waiver of the stormwater quality control requirements as stated in Section § 101-2-2-(13) of the Fairfax County Code/Subdivision Ordinance and Section § 6-0401.2 of the Fairfax County Public Facilities Manual (PFM). If approved, Outlot A and Outlot B shall be created as water quality management areas, as provided in paragraph 7 hereinabove, to satisfy in part stormwater quality control requirements, as determined by DPWES. If the aforementioned stormwater management waivers are not granted by DPWES, then the Applicant may need to apply for a Proffered Condition Amendment (PCA) to provide stormwater management provisions on site.

8. **Berm.** To create a visual buffer, the Applicant shall construct a landscaped berm along the Property frontage on Lee Chapel Road as generally shown on the GDP.

9. **Garages.** The Applicant shall place a covenant on each dwelling unit that prohibits the use of the garage for any purpose that precludes motor vehicle storage. The covenant shall be in a form acceptable to the County Attorney and it shall be recorded among the land records of Fairfax County prior to the sale of the lots.

10. **Building Additions.** The Applicant shall place a covenant on each dwelling unit that prohibits building additions that do not meet the bulk requirements of the R-2 Zoning District. The covenant shall be in a form acceptable to the County Attorney and it shall be recorded among the land records of Fairfax County prior to the sale of the lots.

11. **Driveways.** The minimum driveway length shall be 18 feet, measured from the front of the garage door to the inside edge of the sidewalk to permit the parking of vehicles without overhanging into the sidewalk.

12. **Affordable Housing Trust Fund.** Upon issuance of the first building permit, the Applicant shall contribute to the Affordable Housing Trust Fund an amount equal to 0.5% of the projected sales price of each residential dwelling unit approved for construction on the Property, which sales price shall be determined by the Department of Housing and Community Development in consultation with the Applicant.

13. **Architectural Elevations.** The building elevations for the proposed units shall be generally consistent with the conceptual elevation as shown on sheet 2 of the GDP and as determined by DPWES.

14. **Density Credit.** All intensity of use attributable to land areas dedicated and conveyed to the Board or any other County agency pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and is hereby reserved to the residue of the Property.

15. **Illegal Signs.** No temporary signs (including “popsicle” style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on or off-site by the Applicant or any builder or at the Applicant's or any builder's direction to assist in the initial sale of homes on the Property. Furthermore, the Applicant and every builder shall direct its agents and employees involved in the marketing and/or sale of the residential units on the Property to adhere to this Proffer.

16. **Successors and Assigns.** Each reference to “Applicant” in this Proffer Statement shall include within its meaning, and shall be binding upon, Applicant’s successor(s) in interest, assigns, and/or developer(s) of the Property or any portion of the Property.

17. **Public Facilities Contribution.** At the time of subdivision plan approval, the Applicant shall contribute to the Fairfax County Park Authority the amount of \$1,590.00.

18. **Noise Attenuation.** With reference to Lee Chapel Road, the Applicant shall provide the following noise attenuation measures:

- a. In order to reduce interior noise to a level of approximately 45 dBA Ldn, the Applicant proffers that the new residential units shall be annotated on the subdivision plan and shall have the following acoustical attributes:
 - 1 Exterior walls shall have a laboratory sound transmission class (STC) of at least 39.
 - 2 Doors and glazing shall have a laboratory STC of at least 28. If glazing constitutes more than twenty percent (20%) of any façade, they shall have the same laboratory STC rating as exterior walls.
 - 3 All surfaces shall be sealed and caulked in accordance with methods approved by the American Society of Testing and Materials to minimize sound transmission.

19. **Tree Preservation and Landscaping**

- a. The Applicant shall submit a tree preservation plan as part of the first and all subsequent subdivision plan submissions. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect and reviewed and approved by the Urban Forest Management Branch. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees that are ten (10) inches or greater in diameter, and twenty (20) feet to either side of the limits of clearing and grading shown on the GDP for the entire site. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation (2 red oak trees on Lot 1), those areas outside of the limits of clearing and grading shown on the GDP (Outlots A and B), and other areas in which trees can be preserved as a result of final engineering. The condition analysis ratings

shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of trees to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

- b. All trees shown to be preserved on the tree preservation plan shall be protected by a tree protection fence. Tree protection fencing 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, shall be erected at the limits of clearing and grading as shown on the demolition, phase I & phase II erosion and sedimentation control sheets for the entire site.

All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing, except super silt fence, shall be performed under the supervision of a certified arborist. Three days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, Urban Forest Management and the District Supervisor shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.

- c. During any clearing or tree/vegetation/structure removal on the Application Property, a representative of the Applicant shall be present to monitor the process and ensure that the tree protection fencing remains in place and the trees protected by said fencing are preserved. The Applicant shall retain the services of a certified arborist or landscape architect to monitor all construction work and tree preservation efforts in order to ensure conformance with all tree preservation proffers/conditions. The monitoring schedule shall be described and detailed in the tree preservation plan, and reviewed and approved by Urban Forest Management.
- d. The Applicant shall submit a detailed landscaping plan as part of the first and all subsequent plan submissions that is consistent with the landscaping shown on the GDP and these proffers. The landscaping plan shall utilize a variety of tree species of various sizes planted throughout the site. The native species may include, but are not limited to, white oak, red maple, red oak, American holly, American beech, willow oak, dogwood and others. Pursuant to the Public Facilities Manual ("PFM"), the Applicant shall receive additional tree cover credit if native and desirable trees comprise a minimum of 90% of all trees listed on site. The Applicant shall also receive additional tree cover credit for utilizing tree species and planting locations that are effective for energy conservation as determined by DPWIS.
- e. The Applicant shall remove any dead, dying, or hazardous, on-site, co-owned and off-site trees adjacent to the limits of clearing and grading, and replace the lost tree canopy, as determined by the UFMB. Off-site mitigation shall only be conducted with permission of the appropriate off-site owner, which permission shall be

diligently pursued as determined by DPWES. Prior to subdivision plan approval, a replacement value shall be assigned by the Urban Forest Management Branch to all healthy on-site, co-owned or off-site trees measuring ten (10) inches or larger in diameter, which are located within ten (20) feet of the limits of clearing and grading as shown on the GDP. Trees recommended for removal on the tree preservation plan shall not be assigned a value. At the time of subdivision plan approval, the Applicant shall post cash or a letter of credit payable to the County of Fairfax to ensure removal and replacement of any such on-site, co-owned or off-site trees that are left dead, dying, or hazardous as a result of damage by normal construction activities, but not those harmed by construction activities that are not permitted by the approved Tree Preservation Plan. The calculated replacement values shall be reviewed and approved by the Urban Forest Management Branch prior to posting the cash bond or letter of credit. The terms of the letter of credit shall be subject to approval by the County Attorney. The replacement value of each designated tree shall be determined by a certified arborist according to the methods contained in the latest edition of the Valuation of Landscape Trees, Shrubs and Other Plants published by the International Society of Arboriculture, subject to review and approval by Urban Forest Management. From time to time, funds, or a portion thereof, may be drawn on the cash bond or letter of credit and expended for the purposes of this proffer. The remaining balance of the cash bond or letter of credit shall be refunded by Fairfax County at the time of final bond release. The replacement of trees by the County shall be in accordance with the guidelines of the Fairfax County Public Facilities Manual.

20. **Future Consolidation.** At such time as the adjacent properties identified as Tax Maps 88-1 ((1)) 29 and 88-1 ((1)) 31B are developed with residential dwelling units that are accessed through Wooded Glen Avenue, the measures shown on the GDP shall be executed as follows:

- a. The portion of the driveway entrance on Lee Chapel Road shall be removed as shown on the GDP, and the area shall be replanted to the satisfaction of the Urban Forest Management Branch.
- b. Appropriate curb and gutter improvements shall be provided to the satisfaction of the Fairfax County Department of Transportation where the curb cut on Lee Chapel Road is removed.
- c. The driveway on Lot 2 shall be installed to provide access to Lots 1 and 2 through the adjacent properties with access from Wooded Glenn Avenue.

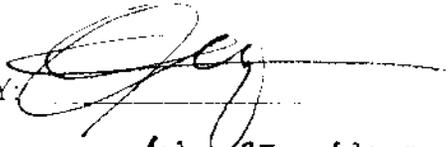
21. **Escrow.** At the time of subdivision plan approval, the Applicant shall contribute to an escrow account to be managed by Fairfax County for implementing the measures described in paragraph 20 hereinabove.

[SIGNATURES ON FOLLOWING PAGE]

Lee Chapel Road Property
RZ 2004-SP-036

TITLE OWNER:
TAX MAP 88-1 ((1)) 28

SEWAN ENTERPRISES, I.L.C

BY: 

Name: AW, SE WONG

Its: C.E.D.