



# FAIRFAX COUNTY

**APPLICATION FILED:** October 6, 2004  
**PLANNING COMMISSION:** March 23, 2005  
**PLANNING COMMISSION DECISION:** May 5, 2005  
**BOARD OF SUPERVISORS PUBLIC HEARING:** June 6, 2005  
**BOARD OF SUPERVISORS REHEARING:** November 21, 2005  
**TIME:** 3:00 P.M.

V I R G I N I A

November 4, 2005

## STAFF REPORT ADDENDUM

### APPLICATION RZ 2004-MV-030

#### MOUNT VERON DISTRICT

<b>APPLICANT:</b>	Luken Company, L. C.
<b>PRESENT ZONING:</b>	R-2
<b>REQUESTED ZONING</b>	R-3 Cluster
<b>PARCEL(S):</b>	110-1 ((01)) 40, 41, 42
<b>ACREAGE:</b>	3.71 acres
<b>DENSITY:</b>	1.76 du/ac
<b>OPEN SPACE:</b>	67, 554 sq. ft. (42 percent)
<b>PLAN MAP:</b>	2-3 du/ac
<b>PROPOSAL:</b>	Develop six (6) single family detached dwelling units on a new public street

#### STAFF RECOMMENDATIONS:

Staff recommends that RZ 2004-MV-030 be approved subject to the proffers contained in Attachment 1.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290.



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

## BACKGROUND

The March 10, 2005 staff report for this application recommended approval of a proposal to develop seven single family detached dwelling units at a density of 1.89 du/ac on property recommended in the adopted Comprehensive Plan for development at 2-3 du/ac. The Planning Commission hearing was held on March 23, 2005. On May 5, 2005, after the applicant revised the Generalized Development Plan and proffers to include fencing along the southern boundary as requested by the community, upon the motion of Commissioner Byers, the Planning Commission voted to recommend that the Board of Supervisors approve RZ 2004-MV-030. On June 6, 2005, the Board of Supervisors public hearing was held and the Board of Supervisors deferred decision to June 20, 2005. Subsequently, the decision was deferred on several occasions, ultimately until October 17, 2005.

During the period the case was deferred the applicant, the community, the Mount Vernon Supervisor and staff continued discussions on the rezoning proposal. Subsequent to a meeting held on October 11, 2005, the applicant submitted a revised GDP dated October 11, 2005 and a revised set of the proffers also dated October 19, 2005. A copy of the proffers is contained in Attachment 1 and a reduction of the October 11, 2005 GDP is contained in Attachment 2. Attachment 3 is a copy of the locator map for the application property.

## DISCUSSION

The revised GDP submitted by the applicant redesigned the site layout to address concerns raised by the community as follows.

First, the number of lots has been reduced from seven (7) to six (6) resulting in a density of 1.76 du/ac, in an area that is planned for 2-3 du/ac.

Second, the location of the stormwater management dry pond, Outlot A, was shifted away from the southern property line and the existing dwellings south of the application property. The revised GDP includes a note indicating that a waiver of on-site stormwater detention will be sought based on the immediate proximity of the North Fork Dogue Creek. The stormwater detention waiver is also addressed in the proffers. Discussions with the staff of the Environmental and Site Review Division indicate that such a waiver request is likely to be granted because this site is immediately adjacent to North Fork of Dogue Creek. If the detention requirement is waived, Outlot A will remain open space and be utilized as the site for a rain garden as shown in the Exhibit contained on Sheet 3 of the GDP (Outlot A was previously shown to be added to the adjacent lots). Access to Outlot B, where the majority of the open space is located, will still remain via Outlot A (previously the access road for the stormwater management facility provided that access). The GDP includes rows of shrubs to delineate Outlot A from the adjacent residential lots.

Third, a water quality improvement area is proposed within the 25 foot wide portion of Outlot B that is located between Lot 3 and the southern boundary of the application property. The proffers state that if the requirement for stormwater detention

is waived, this area will be reforested in accordance with the requirements of the Chesapeake Bay Protection Ordinance. This area is currently lawn area.

Fourth, there is an existing drainage swale along the northern property boundary that conveys off-site water that discharges from a conduit under Lukens Lane. The revised GDP and the draft proffers propose to include two check dams along its route to reduce the velocity of this water to reduce the chance that this channel will erode in the future.

Fifth, the GDP includes additional restrictions on the locations of the dwellings on Lots 2 and 3 to address concerns of the adjacent property owners. Two lines, labeled "Western Limits of Principal Structure", have been added to those lots to ensure that the new dwellings will not be adjacent to the existing dwellings on the adjacent lots. These limits will restrict the size of the dwelling constructed on those lots and the ability of the future owners to construct additions. Provisions have been added to the proffers to notify future purchasers of these lots of these restrictions, including the deed and the house location plats, which be available to purchasers after the initial sales of the development. The proffers also clarify that the yard area beyond the additional limits line may be used for permitted extensions in yards and accessory structures.

Finally, the draft proffers and the GDP were changed to remove the fence that was previously shown along the southern property line. The adjacent property owners were concerned about the pond being located adjacent to their lots. Since it has been relocated the commitment to the fence has been withdrawn.

The proffers have also been revised to reflect the revised layout on the GDP and to accommodate the likely modification of Outlot A to include a rain garden in lieu of a detention facility should the appropriate waiver be granted. Additional modifications to the proffers reflect recent modifications to the standard text for tree preservation commitments that have occurred since the Planning Commission hearing for this application.

## CONCLUSIONS AND RECOMMENDATIONS

### Conclusions

The revised GDP has reduced the number of proposed dwelling units from seven to six resulting in a density of 1.76 du/ac. In addition, the GDP has been revised to move Outlot A, the possible location of the stormwater management facility away from the adjoining lots and to ensure that the future dwellings are not immediately adjacent to the existing dwellings to the south.

As noted in the original staff report, the proposed development will meet its requirement to provide best management practices (BMPs) through conserving the existing vegetation on the northern portion of Outlot B and reforesting the remaining area, which is currently lawn area. A conservation easement will also be placed on Outlot B to ensure that the area remains undisturbed and continues to provide water

quality treatment. Three additional water quality improvements will be installed if the requirement for stormwater management is waived: a rain garden on Outlot A, a rain garden to the south of Lot 3 and check dams on the existing swale along the northern property line. The additional features will be above and beyond the requirements of the Public Facilities Manual, even though the PFM allows BMP credits for rain gardens.

### Recommendations

Staff recommends approval of the application subject to the proffers dated October 12, 2005.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions proffered by the owner, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Supervisors.

### ATTACHMENTS

1. Draft Proffer Statement
2. Conceptual/Final Development Plan
3. Locator Map

**PROFFERS**  
**HALLEY FARM**

RZ 2004-MV-030  
February 18, 2005  
(Rev. March 7, 2005)  
(Rev. March 15, 2005)  
(Rev. April 29, 2005)  
(Rev. May 11, 2005)  
(Rev. August 12, 2005)  
(Rev. October 7, 2005)  
(Rev. October 12, 2005)  
(Rev. October 19, 2005)

Pursuant to Section 15.2-2303(a) of the 1950 Code of Virginia, as amended, and Section 18-203 of the Zoning Ordinance of Fairfax County (1978), the property owners and the Luken Co., LC (the applicant) for themselves, their successors or assigns proffer as follows:

1. **Generalized Development Plan (GDP)**

Development of the property that is subject to this rezoning (the "Property") shall be in substantial conformance with the plan entitled "*Generalized Development Plan, Halley Farm*" (GDP) consisting of four sheets, dated June 15, 2004 (revised through October 11, 2005), and prepared by R.C. Fields, Jr. & Associates, P.C.

2. **Minor Modifications**

Pursuant to Par. 5 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDP may be permitted as determined by the Zoning Administrator provided that such modifications are in substantial conformance with the GDP and still meet all cluster provisions. The dwellings may have bay windows, chimneys, decks, patios, porches, etc. added to complement the dwellings. Minor adjustment of property lines may be made at the time of final subdivision, if applicable. The proposed dwellings shall conform to the setback requirements of the R-3 Cluster District (represented on the GDP with a dashed line on each lot). Lots 2 and 3 include further restrictions limiting the areas for the principle structures (noted as "*Western Limits of Principle Structure*"). Lot 2 and 3 are intended to be as close to the eastern portion of the parcel and construction may not occur on the western side of this line. "*The "Western Limits of Principle Structure" line shall not preclude the installation of "Permitted Extensions into Minimum Required Yards" as allowed by Sect. 2-412 and accessory structures as permitted by Article 10 of the Zoning Ordinance. The limitations resulting from the "Western Limits of Principal Structure" line shall be fully disclosed in the promotional sales literature related to those lots, in the sales contracts, the homeowner association documents, in the deeds and on the House Location Plats for Lots 2 and 3. "*

3. **Existing House**

The existing house located on lot 1 has been noted to be saved however, that house may be removed and a new dwelling constructed in its place. The dwelling constructed in place of the existing house shall meet all of the zoning requirements consistent with the GDP and the cluster provisions applicable to this subdivision. The existing 28" tree shown between lot 1 and 2 may be removed if the existing house is removed and a new house is built on lot 1. If a new house is constructed on lot 1, it shall include a 2 car garage and two parking spaces within the driveway.

4. **Garage Conversion**

Any conversion of garages associated with the single family detached units to living space that will preclude the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be incorporated in the HOA documents and be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of homeowners' association (HOA) and the Board of Supervisors. Prior to entering into a contract of sale, prospective purchasers shall be advised of this use restriction. This restriction shall also be incorporated into the Homeowners Association documents.

5. **Recreational Facilities**

The applicant shall provide \$5830.00 to the Fairfax County Park Authority for recreational facility development at one or more of the County park sites located within the service area of this development. These funds shall be provided prior to final bond release

6. **Fairfax County Public School (FCPS)**

The applicant shall provide \$7500.00 to the Fairfax County Board of Supervisors for County School improvements within the school pyramid that serves this property. The funds shall be provided prior the issuance of the first building permit

7. **Lukens Lane Dedication and Frontage Improvements**

Subject to DPWES approval, the applicant, shall dedicate and convey in fee simple to the Board of Supervisors right-of-way up to a width of twenty-seven and one half (27.5) feet from the existing centerline of Lukens Lane. Such dedication shall be made upon demand by Fairfax County or at the time of recordation of the final subdivision plat, whichever occurs first. All density related to such dedication is hereby reserved pursuant to Par. 5 of Section 2-308 of the Zoning Ordinance. At the time of subdivision plat approval, the applicant shall construct full frontage improvements to 19 feet from centerline with applicable VDOT transitions to existing adjacent properties along Lukens Lane to include curb, gutter and a five foot (5') wide sidewalk, subject to DPWES and VDOT approval.

8. **Proposed Internal Street**

The proposed subdivision street shown on the GDP shall be a public street and shall be constructed in accordance with the Fairfax County Public Facilities Manual. Furthermore, a sidewalk (meeting VDOT/Fairfax County standard) shall be provided on both sides as shown on the proposed subdivision street and connected to the sidewalk proposed along Lukens Lane as shown on the GDP.

9. **Stormwater Detention Waiver**

A waiver of stormwater management detention will be sought at the time of final subdivision plan review. If the detention waiver is approved by DPWES, Outlot A will be modified to delete the stormwater management pond and to provide pedestrian access to Outlot B and a rain garden, as shown on Sheet 3 of the GDP. The rain garden shall be designed, constructed and maintained in accordance with the requirements set forth by Fairfax County DPWES, generally consistent with Attachment A. The rain garden shall be maintained by the HOA. A maintenance agreement shall be executed at the time of subdivision plat approval. The terms of the maintenance agreement shall be subject to the review and approval of DPWES and the County Attorney.

In addition, if a stormwater detention waiver is granted, a Water Quality Management area shall be established on the twenty-five foot wide portion of Outlot B located along the south boundary of Lot 3, as depicted on the detail, Sheet 3. This area shall be a minimum of twenty-five feet wide and shall be

reforested consistent with Chesapeake Bay Preservation Ordinance (CBPO) Sect. 118-3-3(f). The existence of the rain garden and the water quality management area, and the associated maintenance responsibilities shall be disclosed in the Homeowners' Association documents.

#### 9A. Stormwater Detention

If the stormwater management detention waiver (see Par. 9 above), is not granted, subject to review and approval by DPWES, a dry pond shall be provided on-site as shown on the GDP to achieve detention requirements. If the pond is required, the applicant shall provide an access road for maintenance access to the detention pond as shown on the GDP and as approved by DPWES; this access road shall be constructed of grass pavers or other suitable all weather pervious surfaces subject to approval by the Director, DPWES.

In addition, a hedge and/or fence shall be provided to delineate the access road from the remainder of the yard of the Lot 3. An ingress/egress easement shall be recorded on the access road to provide the County and the other owners of lots within this subdivision access to the open space in Outlot B for maintenance, inspection and replacement of the pond. The existence of the access road, the terms of the ingress/egress easement and the fact that Lot 3 is encumbered by that easement shall be included in the Homeowners' Association documents, disclosed to the initial purchasers of the Lot 3 prior to entering in a sales contract for that lot, and included in the chain of title, by, at a minimum identifying the easement and access road in the deed and on the house location plat for Lot 3.

#### 10. Stormwater Quality (Best Management Practices, "BMPs")

BMPs in accordance with the requirements of the Public Facilities Manual shall be provided on-site as determined by DPWES. The BMP requirements may be met, in whole or in part, by Outlot B open space within Outlot B, including the reforestation of the portion of Outlot B that is currently lawn, provided that such reforestation is done consistent with CBPO Sect. 118-3-3(f) and the provisions of Proffer 14I below. A Conservation Easement and/or a Floodplain and Storm Drainage Easement shall be placed on Outlot B. The applicant shall disclose the fact that there are easements on Outlot B to prospective purchasers in both the sales promotion literature and the sales contracts. The terms of those easements shall be included in the HOA documents, including the provisions that the conservation area will remain undisturbed, that clearing of the area is prohibited, that the dumping of yard or other debris is prohibited, that the location or construction of sheds, fences or recreation equipment is prohibited in Outlot B. Alternative methods of providing BMPs shall be provided to meet Fairfax County standards if the BMP described above cannot be provided or does not satisfy fully the County's BMP requirements. The alternative methods of providing BMPs shall be in substantial conformance with the proffered GDP; if the alternative methods are not in substantial conformance with the proffered GDP, the applicant recognizes that approval of a proffered condition amendment will be required.

#### 11. Outfall Channel from Outlot A

The GDP includes a channel to convey water from the stormwater management detention facility or alternative rain garden to the North Fork of Dogue Creek that will be located on Outlot A. This channel shall conform with the requirements of the Public Facilities Manual and shall be located in the currently un-forested portion of Outlot B, as shown on the GDP. Minor configuration changes to the proposed outfall channel may be made at the time of final subdivision plan approval to meet PFM and CBPO requirements including the submission of a Water Quality Impact Assessment.

#### 11A. Offsite Drainage/Water Quality

Stormwater runoff from the east side of Lukens Lane enters the property via an existing pipe located under Lukens Lane and drains across the property. The applicant shall improve the existing channel outside of the floodplain/RPA by constructing a grass swale with check dams consistent with the requirements set forth

by

the *Virginia Stormwater Management Handbook, Chapter 3, BMP Minimum Standards and Specifications, Section 3.13, Grass Swales* as modified by Fairfax County Letter to Industry 01-11, Revised Procedures for Requests to Use Innovative Best Management Practices and as shown on the GDP, DPWES, subject to approval of DPWES.

12. **Site Fencing**

A four foot split rail fence shall be provided between Outlot B and residential lots 2, 3, 4, 5 and 6 to delineate that boundary. This fence shall be located outside of the 100 Yr. Floodplain, Resource Protection Area (RPA) and Environmental Quality Corridor (EQC) area. An alternative method to delineate this boundary may be approved by the Director, Zoning Evaluation Division.

13. **Affordable Housing Contribution**

Applicant shall contribute to Fairfax County 0.5% of the value of the proposed units on the property prior to the time of issuance of the first building permit.

14. **Landscaping**

**14A. Tree Preservation Plan**

1. 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 shall be subject to the review and approval of the Urban Forest Management, DPWES.

2. 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 10 inches in diameter and greater, and 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, those areas outside of the limits of clearing and grading shown on the GDP, and those additional 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 identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan. The use of motorized equipment in the forested portion of Outlot B shall be limited to hand-operated equipment such as chainsaws, wheel barrows, rakes, and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump grinders, etc. or any accessory or attachment connected to this type of equipment shall not occur unless previously approved by Urban Forestry Management.

**14B. Protection of Existing Understory Vegetation and Soil Conditions in Tree Preservation Areas**

1. All tree preservation-related work occurring in or adjacent to tree preservation areas shall be accomplished in a manner that minimizes damage to vegetation to be preserved including any woody, herbaceous or vine plant species that occurs in the lower canopy environment, and to the existing top soil and leaf litter layers that provide nourishment and protection to that vegetation. Any removal of any vegetation or soil disturbance in tree preservation areas including the removal of plant species that may be perceived as noxious or invasive, such as poison ivy, greenbrier, multi-floral rose, etc. shall be subject to the review and approval of Urban Forest Management, DPWES.

2. The use of motorized equipment in tree preservation areas will be limited to hand-operated equipment such as chainsaws, wheel barrows, rake and shovels. Any work that requires the use of motorized equipment, such as tree transplanting spades, skid loaders, tractors, trucks, stump-grinders,

etc., or any accessory or attachment connected to this type of equipment shall not occur unless pre-approved

by Urban Forest Management, DPWES.

#### 14C. Root Pruning and Mulching

1. The applicant shall 1) root prune, 2) mulch, and 3) provide tree protection fencing in the form of four foot high, 14 gauge welded wire attached to 6 foot steel posts driven 18 inches into the ground and placed no further than 10 feet apart, or other forms of tree protection fencing approved by Urban Forest Management, DPWES for all tree preservation areas. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets and demolition plan sheets of the subdivision plan submission. The details for these treatments shall be reviewed and approved by Urban Forest Management, 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 with the supervision of a certified arborist.
- Tree protection fence shall be installed immediately after root pruning, and shall be positioned directly in the root pruning trench and backfilled for stability, or just outside the trench within the disturbed area.
- Immediately after the phase II E&S activities are complete, mulch shall be applied at a depth of 4 inches extending 10 feet inside the undisturbed area without the use of motorized equipment.
- Mulch shall consist of hardwood mulch or the approved equal.
- An Urban Forest Management, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

#### 14D. Tree Preservation Walk-Through

1. The applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forest Management, 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. Trees that are identified specifically by UFM in writing 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 the adjacent trees and associated understory vegetation and soil conditions.

#### 14E. Tree Protection Fencing

1. All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing (super silt fence shall be located along the lower portion of the disturbed area along the 100-year floodplain/RPA/EQC) shall be erected at the limits of clearing and grading as shown on the phase I & II erosion and sediment control sheets, as may be modified by proffer 14C above. 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.

2. 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 fence types 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 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, DPWES 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. 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 Urban Forest Management, DPWES.

#### 14F. Tree Transplanting

1. The applicant shall provide a transplanting plan as part of the first and all subsequent submissions of the subdivision plan for review and approval by Urban Forest Management, DPWES, and shall implement the plan as approved. The plan shall be prepared by a professional with experience in the preparation of tree transplanting plans, such as a certified arborist or landscape architect. Depending upon site constraints, the plan shall address one or all of the following items, as determined by Urban Forest Management, DPWES:

- the species and sizes to be transplanted;
- the existing locations of the trees;
- the proposed final locations of the trees;
- the proposed time of year when the trees will be moved;
- the transplant methods to be used, including tree spade size if applicable;
- Details regarding after-transplant care, including mulching and watering, and, if necessary, support measures such as cabling, guying or staking.”
- Details regarding equipment to be used to transport plant materials.

#### 14G. Demolition of Existing Structures

1. The demolition of existing features and structures shall be conducted in a manner that does not impact on individual trees and/or groups of trees that are to be preserved as reviewed and approved by Urban Forest Management, DPWES. Methods to preserve existing trees may include, but not be limited to the use of super silt fence, welded wire tree protection fence, root pruning, mulching, as approved by the Urban Forest management.

#### 14H. Site Monitoring

1. During any clearing or tree/vegetation/structure removal or transplantation of vegetation on the Application 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 UFM. 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, and UFM approvals. The monitoring schedule shall be described and detailed in the landscaping plan, and reviewed and approved by Urban Forest Management, DPWES.”

#### 14I. Reforestation Plan

1. A reforestation plan for grass area located within the 100-year floodplain/RPA/EQC consistent with CBPO 118-3-3(f) shall be submitted concurrently with the first and all subsequent subdivision plan submissions for review and approval by Urban Forest Management, DPWES, and shall be implemented as approved. The plan shall propose an appropriate selection of species based on existing and proposed site conditions to restore the area to a native forest cover type. The reforestation plan shall include, but not be limited to the following:

- plant list detailing species, sizes and stock type of trees and other vegetation to be planted
- soil treatments and amendments if necessary
- mulching specifications

- methods of installation
- maintenance
- mortality threshold
- monitoring
- replacement schedule

#### 14J. Stormwater Management - Dry Pond Facility Landscaping

1. In order to restore a natural appearance to the proposed stormwater management located adjacent to the 100-year floodplain/RPA/EQC between lots 3 & 4, a landscape plan shall be submitted as part of the first submission of the subdivision plan. The plan shall show the restrictive planting easement for the pond, and extensive landscaping in all areas outside of that restrictive planting easement, to the maximum extent feasible in accordance with the planting policies of Fairfax County.” If the stormwater pond is waived and a rain garden is installed in Outlot A, this proffer shall be null and void and plantings consistent with Fairfax County Letter to Industry 01-11, Revised Procedures for Requests to Use Innovative Best Management Practices.

#### 14K. Replacement Value

1. The applicant shall retain a professional with experience in plant appraisal, such as a certified arborist or landscape architect, to determine the replacement value of trees noted “to be saved” (TBS) in the vicinity of Lot 1, and the forested portion of Outlot B, except for the 28” tree removal as noted in proffer #3. These trees and their value shall be identified on the landscape plan at the time of the first submission of the subdivision plan. The replacement value shall take into consideration the age and size of these trees and shall be determined according to the methods contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, subject to review and approval by Urban Forest Management, DPWES.

2. At the time of subdivision plan approval, the Applicant shall post a cash bond or letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the designated trees that die or are dying due to normal construction activities permitted on the approved plan. Any trees shown to be preserved on the Tree Preservation Plan that die or are dying due to unauthorized construction activities. The letter of credit shall be equal to fifty percent (50%) of the replacement value of the bonded trees. The cash bond shall consist of thirty-three (33%) of the amount of the letter of credit. At any time prior to final bond release, should any of the bonded trees die, be removed or are determined to be dying by Urban Forestry Management due to unauthorized construction activities, those trees shall be replaced with trees of equivalent species and size and the bond monies for said trees shall not be refunded. 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 Value Method and paid to a fund established for furtherance of tree preservation objectives. At the time of the approval of the final RUP, the applicant shall be entitled to request a release of any monies remaining in the cash bond and a reduction in the letter of credit to any amount up to twenty percent (20%) of the total amounts originally committed. Any funds remaining in the letter of credit or cash bond will be released two (2) years from the date of release of the conservation escrow, or sooner, if approved by UFM.

3. If, at the time of final bond release, trees are found to be dead or dying despite adherence to approved construction activities by Urban Forest Management, DPWES, the cash bond or letter of credit shall be used as necessary to plant similar size and species, or species appropriate to the site, in consultation with Urban Forest Management, DPWES, and the developer’s certified arborist. The cash bond or letter of credit shall not be used for the removal of the dead/dying trees normally required by the PFM and the Conservation Agreement.

4. Any funds remaining in the letter of credit or cash bond will be released two years from the date of release of the project's conservation escrow, or sooner, if approved by Urban Forest Management, DPWES.

15. **Limits of Clearing and Grading**

The applicant shall conform strictly to the limits of clearing and grading as shown on the GDP subject to the installation of stormwater management facilities and/or ditch modification to provide adequate outfall as determined necessary by the Director of DPWES. Other utilities shall not be permitted within Outlot B. If it is determined necessary to install stormwater management facilities, utilities and/or outfall modifications outside of the limits of clearing and grading as shown on the GDP and allowed by this proffer, they shall be located in the least disruptive manner necessary as determined by the Director of DPWES. A replanting plan shall be developed and implemented, subject to approval by Urban Forest Management, DPWES, for any areas outside the limits of clearing and grading that required disturbance resulting in the tree removal. In addition, the onsite area will be cleared of trash and debris at the time of construction.

16. **Homeowners Association**

A Homeowners Association shall be established to provide the associated obligations and responsibilities of the common parcels. Outlot A & B shall be owned and maintained by the Homeowners Association. The rain gardens and check dams located within Outlot A and Outlot B shall be maintained by the Homeowners Association (see Proffer 9A). These responsibilities shall be included in the HOA documents and shall be disclosed in the sales contract for each dwelling. That Outlot B is subject to a Conservation and/or a Floodplain and Storm Drainage Easement shall be included in the HOA documents (see Proffer 10).

17. **Building Construction**

The lowest level of the lowest habitable level of the proposed dwellings shall be constructed a minimum of 18 inches above the 100 Year Floodplain elevation of 16.0, consistent with The Fairfax County Zoning Ordinance Floodplain Regulations 2-900.

18. **Architecture**

The materials of the dwellings shall include brick, stone and/or cement type siding. The front façade shall be primarily brick, with the exception of roof gables, trim, architectural details, windows and other such features. The rear façade and the side façade of the new houses shall utilize a combination of building material and/or architectural elements or ornamentation such as shutters to provide architectural variety. Furthermore, the applicant agrees that windows on the side facades of the houses shall not be directly opposite to windows of the side façade of an adjacent home.

19. **Energy Conservation**

All the homes to be constructed on the Property shall meet the thermal guidelines of the CABO Model Energy Program, or its equivalent, as determined by DPWES for either gas or electric energy systems, as may be applicable.

**(SIGNATURE PAGE ATTACHED)**

**(PROFFER SIGNATURE PAGE)**

LUKEN COMPANY, L.C., Title Owner of TM 110-1((1)) Parcels 40, 41 and 42

BY: \_\_\_\_\_  
James D. Turner, its Managing Member

\_\_\_\_\_  
Date